Long Island, N. Y., favoring an increase of salary to postal employees and also an increase of second, third, and fourth class postal rates; to the Committee on the Post Office and Post Roads.

3445. Also, petition of the United Real Estate Owners' Association, of New York City, opposing Senate bill 3674; to the Committee on the District of Columbia.

3446. Also, petition of the Woodhaven Post, No. 118, American Legion, of Woodhaven, Long Island, N. Y., favoring the passage of the Bursum-Lineberger bill (H. R. 6484 and S. 33) for the retirement of emergency Army officers; to the Committee on Military Affairs.

SENATE

WEDNESDAY, *January 14, 1925*

(Legislative day of Monday, January 5, 1925)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Haltigan, one of its clerks, announced that the House disagreed to the amendments of the Senate to the bill (H. R. 11308) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1925, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal year ending June 30, 1925, and for other purposes; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MADDEN, Mr. ANTHONY, and Mr. BYRNS of Tennessee, were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

The message also announced that the Speaker of the House had affixed his signature to the following enrolled bills, and they were thereupon signed by the President pro tempore:

S. 1782. An act to provide for the widening of Nichols Avenue between Good Hope Road and S Street SE.;

S. 3053. An act to quiet title to original lot 4, square 116, in the city of Washington, D. C.; and

H. R. 10144. An act to amend an act entitled "An act to fix the salaries of officers and members of the Metropolitan police force, the United States park police force, and the fire department of the District of Columbia," approved May 27, 1924.

PETITIONS AND MEMORIALS

Mr. WILLIS presented memorials numerously signed by sundry citizens of Cleveland, Ohio, remonstrating against the passage of legislation providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

Mr. BROOKHART presented the memorials of W. J. Davis and sundry other citizens of Taylor County, and of E. D. Hopkins and sundry other citizens of Red Oak, all in the State of Iowa, remonstrating against the passage of legislation providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

He also presented the petition of Mrs. K. A. Brunsvold and sundry other citizens of Northwood, Iowa, praying for the passage of the bill (H. R. 728) to amend the national prohibition act, as amended and supplemented, and the bill (H. R. 6645) to amend the national prohibition act, to provide for a bureau of prohibition in the Treasury Department, to define its powers and duties, and to place its personnel under the civil service act, which was referred to the Committee on the Judiciary.

He also presented a resolution adopted at a meeting of the Woman's Club, the League of Women Voters, and sundry citizens, all of Humboldt, Iowa, favoring the participation of the United States in the Permanent Court of International Justice, which was referred to the Committee on Foreign Relations.

He also presented a resolution of the Scott County (Iowa) Bar Association, favoring the passage of legislation granting increased salaries to Federal judges, which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

Mr. LADD, from the Committee on Public Lands and Surveys, to which was referred the bill (H. R. 3387) authorizing repayment of excess amounts paid by purchasers of certain lots in the town site of Sanish, formerly Fort Berthold Indian Reservation, N. Dak., reported it without amendment and submitted a report (No. 862) thereon.

Mr. SHORTRIDGE from the Committee on Naval Affairs, to which was referred the bill (H. R. 7167) for the relief of George A. Berry, reported it without amendment and submitted a report (No. 863) thereon.

Mr. STERLING, from the Committee on Post Offices and Post Roads, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (H. R. 7064) to encourage commercial aviation and to authorize the Postmaster General to contract for air-mail service (Rept. No. 864); and

A bill (H. R. 9093) declaring pistols, revolvers, and other firearms capable of being concealed on the person nonmailable and providing penalty (Rept. No. 865).

Mr. ODDIE. On behalf of the Committee on Naval Affairs, I report back with amendments House bill 9634, to provide for the creation, organization, administration, and maintenance of a Naval Reserve and a Marine Corps Reserve, and I submit a report (No. 866) thereon. I ask that it may be printed.

I should like to state, Mr. President, that at the last session of Congress a subcommittee was appointed by the Committee on Naval Affairs, of which subcommittee I was chairman, and we had extensive hearings on the companion bill that was introduced in the Senate.

The PRESIDENT pro tempore. The Senator asks that the report may be printed and go to the calendar. Is there objection? The Chair hears none, and it is so ordered.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BUTLER:

A bill (S. 3927) to promote the flow of foreign commerce through all ports of the United States and to prevent the maintenance of port differentials and other unwarranted rate handicaps; to the Committee on Interstate Commerce.

A bill (S. 3928) granting an increase of pension to Fred Nilan (with accompanying papers); and

A bill (S. 3929) granting an increase of pension to George Libby (with accompanying papers); to the Committee on Pensions.

By Mr. McNARY:

A bill (S. 3930) granting an increase of pension to Frank Calina; to the Committee on Pensions.

By Mr. COPELAND:

A bill (S. 3931) for the relief of the estate of Henry Seip, deceased; to the Committee on Claims.

By Mr. NEELY:

A bill (S. 3932) granting a pension to Imogene West; and

A bill (S. 3933) granting a pension to James White; to the Committee on Pensions.

A bill (S. 3934) for the relief of the city of Martinsburg, W. Va.; to the Committee on Claims.

By Mr. SPENCER:

A bill (S. 3935) for the relief of Maria Maykovica of St. Louis (with accompanying papers); to the Committee on Claims.

By Mr. CUMMINS (Mr. McNARY in the chair):

A bill (S. 3936) to create a negro industrial commission; to the Committee on the Judiciary.

MUSCLE SHOALS

The Senate resumed the consideration of the bill (H. R. 518) to authorize and direct the Secretary of War, for national defense in time of war and for the production of fertilizers and other useful products in time of peace, to sell to Henry Ford, or a corporation to be incorporated by him, nitrate plant No. 1, at Sheffield, Ala.; nitrate plant No. 2, at Muscle Shoals, Ala.; Waco Quarry, near Russellville, Ala.; steam-power plant to be located and constructed at or near Lock and Dam No. 17, on the Black Warrior River, Ala., with right of way and transmission line to nitrate plant No. 2, Muscle Shoals, Ala.; and to lease to Henry Ford, or a corporation to be incorporated by him, Dam No. 2 and Dam No. 3 (as designated in H. Doc. 1262, 64th Cong., 1st sess.), including power stations when constructed as provided herein, and for other purposes.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Alabama [Mr. UNDERWOOD].

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Clerk will call the roll.

The principal legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Ferris	McCormick	Shields
Ball	Fess	McKellar	Shipstead
Bayard	Fletcher	McKinley	Shortridge
Bingham	George	McLean	Simmons
Borah	Gerry	McNary	Smith
Brookhart	Gooding	Mayfield	Smoot
Bruce	Greene	Means	Spencer
Bursum	Hale	Metcalf	Stanley
Butler	Harreld	Moses	Sterling
Cameron	Harris	Neely	Swanson
Capper	Harrison	Norbeck	Trammell
Copeland	Heflin	Norris	Underwood
Couzens	Howell	Oddie	Wadsworth
Cummins	Johnson, Calif.	Owen	Walsh, Mass.
Curtis	Jones, N. Mex.	Pepper	Walsh, Mont.
Dale	Jones, Wash.	Phipps	Warren
Dial	Kendrick	Pittman	Watson
Dill	Keyes	Ralston	Weller
Edge	King	Ransdell	Willis
Ernst	Ladd	Reed, Pa.	
Fernald	La Follette	Sheppard	

The PRESIDENT pro tempore. Eighty-two Senators having answered to their names, a quorum is present.

Mr. UNDERWOOD obtained the floor.

Mr. SPENCER. Mr. President, I ask unanimous consent to present a report from the Committee on Privileges and Elections and for its immediate consideration.

Mr. UNDERWOOD. If the Senator will wait a moment, we have just had a roll call, and while Senators are here I want to present a unanimous-consent request to vote on the pending amendment. I will yield the floor to the Senator in a moment.

Mr. SPENCER. Very well; I will withhold the request.

Mr. UNDERWOOD. I ask unanimous consent that at not later than 2 o'clock to-day we may have a vote on the pending amendment and that in the meantime no Senator shall speak more than once or longer than 15 minutes.

The PRESIDENT pro tempore. The Senator from Alabama asks unanimous consent that a vote shall be taken at not later than 2 o'clock this afternoon upon the amendment now pending, and that in the meantime no Senator shall speak more than once or longer than 15 minutes. Is there objection?

Mr. NORRIS. I object.

The PRESIDENT pro tempore. Objection is made.

COUNT OF THE ELECTORAL VOTES

Mr. SPENCER, from the Committee on Privileges and Elections, to which was referred Senate Concurrent Resolution 25, reported it favorably without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 11th day of February, 1925, at 1 o'clock postmeridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President pro tempore of the Senate shall be their presiding officer; that two tellers shall be previously appointed by the President pro tempore on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed as they are opened by the President of the Senate all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

INVESTIGATION OF POWER COMPANIES

Mr. PHIPPS. Mr. President, I ask unanimous consent to have read at the desk the telegram which I now present.

The PRESIDENT pro tempore. The Senator from Colorado asks unanimous consent to submit a telegram for reading at the desk. Without objection, the Clerk will read the telegram.

The telegram was read as follows:

[Western Union Telegram]

PUEBLO, COLO., *January 13, 1925.*

Hon. LAWRENCE C. PHIPPS,
Senate Chamber, Washington, D. C.:

The Pueblo Commerce Club trusts you will oppose the unjustified resolution of Senator NORRIS calling for investigation of organization and practices of holding companies throughout country. The people are heartly sick of so-called investigations that only tend to disturb business conditions and create distrust and unnecessary friction. Let us have peace and progress for a while and the country will go ahead and prosper as it should.

FRANK S. HOAG, *President.*

Mr. NORRIS. Mr. President, I can not help saying just a word with reference to the telegram. The resolution investigating the so-called Power Trust is not now formally before the Senate, but it is the same old cry. When it is practically developed now that there is a gigantic Power Trust in America, special interests perhaps getting a direct benefit through one or more of the subsidiaries of that trust naturally cry out "Don't investigate. Let us have peace and harmony." It is the same kind of peace that the lamb has when he lies down to rest in the lion's stomach.

Mr. PHIPPS. Mr. President, I conceived it to be my duty to present the communication because the resolution itself was not referred to a committee, but was allowed to lie on the table under the rule.

As to any question of inordinate or improper earnings by power companies or public utilities, it seems to me that as a rule the States are provided with proper regulations limiting such earnings. In many cases the rule is 8 per cent on the amount actually invested in the business. Considering the risk of business, the State authorities, through their legislative assemblies, have decided that 8 per cent is not an improper and excessive earning on the amount invested in a business which necessarily carries more or less risk at all times.

Mr. NORRIS. Mr. President, I am not finding fault with the Senator from Colorado for having had the telegram read. I should probably have done the same thing had it come to me. I concede the Senator's action is perfectly proper and I said nothing about that. The Senator from Colorado naturally has a viewpoint, which is not influenced, I concede, in any degree by his holdings or anything of that kind; he is perfectly free always to take any course which he desires to take; and so I do not complain of the Senator; but it happens that from his viewpoint he always goes on a side that I do not go on as to those particular corporations and power companies that, as a matter of fact, now have a network over a good portion of the country.

However, if what the Senator has stated is all true, an investigation to show how philanthropic those companies are, that they never make more than 8 per cent, that they are all properly regulated, and that they are giving to the "dear people," whom they love so much, fair rates and honest service, ought to raise them clear up out of the slough of despond and put them high on an elevation where they properly belong, if that is all true.

Nobody proposes an investigation that shall not be fair; nobody proposes to bring out anything but that which is true. Why should the truth hurt those interests? Why, if they are honest, should the truth be something that they wish to avoid? If they are doing so much for their fellow men, why not let the people know what they are doing? If they are only making 8 per cent on a fair valuation of their property, why not have an investigation which will disclose that fact? If they are not intertwined and interlocked by interlocking directorates and ownership of stock, then, why not let the people know it? Why not join together and have an investigation that will reveal them as they really are? If they are found to be in that condition it will be a vindication of every one of them.

Nobody proposes an investigation that shall smother anything. If the public-service commissioners all over the United States have regulated these companies so that the people are getting a square deal they will not be hurt by having the truth known. Probably, too, they will be able to explain how it was that in the city of Cleveland, although the court held that the rate charged by the electric light company was fair, was honest, and could not be reduced without putting the company into the hands of a receiver, notwithstanding that judicial determination of the public-service commission and of the courts, when the city of Cleveland went into the electric light business on a small scale, the electric light company of their own accord, in order to meet the competition, cut their rates for service in two, and have not as yet been sent to the poorhouse, although that reduction happened quite a number of years ago.

The PRESIDENT pro tempore. The telegram will lie on the table.

THE AGRICULTURAL PROBLEM

Mr. BORAH. Mr. President, I have received under date of January 13, 1925, a letter from the Chamber of Commerce of the United States of America, which I feel that it is proper

that I ask may be printed in the RECORD, together with the inclosure. It relates to some remarks which I delivered the other day.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the letter will be printed in the RECORD.

The matter referred to is as follows:

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
OFFICE OF THE RESIDENT VICE PRESIDENT,
Washington, January 13, 1925.

Hon. WILLIAM E. BORAH,
United States Senate, Washington, D. C.

DEAR SENATOR: Immediately following the last meeting of the board of directors of this chamber, its president, Mr. Richard F. Grant, accompanied by Mr. Julius H. Barnes, the former president, and Mr. Lewis E. Pierson, the chairman of the executive committee, called on the President and talked to him on the encouraging improvement in agricultural conditions.

On their return they authorized a statement which was sent to the press on December 13.

I inclose herewith a copy and would ask that it be substituted for what an unnamed newspaper made of it as quoted in your speech before the Senate yesterday.

Very truly yours, ELLIOT H. GOODWIN,
Resident Vice President.

CHAMBER OF COMMERCE OF THE UNITED STATES—PRESS SERVICE

WASHINGTON, December 13, 1924.—The interest of American business in the recovery of agriculture was put before President Coolidge to-day by a special committee of the Chamber of Commerce of the United States. Members of the committee who went to the White House were Richard F. Grant, president of the chamber; Julius H. Barnes, formerly president; and Lewis E. Pierson, chairman of the chamber's executive committee.

"Business men the country over," said the members of the committee after seeing the President, "are keenly aware of the economic necessity for prosperous agricultural conditions, and they are gratified that the opportunity was given for improvement to come about in a normal way. At the time the agricultural situation was at its worst the chamber took the position that no spectacular program could be made effective and that unwise laws would have the effect of creating a worse situation. It was held then, and it is still true, that there is no more a ready legislative cure for agricultural depressions than for depressions in business.

"The chamber believes that forces which have influenced the improvement in agricultural conditions will continue to have their effect until a full recovery is assured.

"The new spirit of confidence in industry, the widening circle of full employment, the healthfully advanced level of commodities all confirm a material strengthening of home markets, with the promise to agriculture which that carries for the future.

"The successive steps through the Dawes plan have restored financial and commercial stability in Europe and have made a clear reflection of European buying power into American farm markets this year in these intervening months. The administration has achieved this major improvement.

"The improving financial stability of the world has automatically been reflected into the advance of depreciated currency toward the gold parity, which will automatically relieve our farmers of the unfair competition of depreciated-currency countries. Here again the policies of the administration have distinctly eliminated this competitive disability of our growers.

"This fall an unprecedented amount of grain marketing has been met by sustained and even by advancing grain prices, absorbing marketing beyond the possible current consumption and export because of investment and speculative buying readily effective through exchange trading. No overstatement is possible of the service to the American farm this fall of the great grain exchanges.

"There are other things which will have their influence in this movement, toward better farm conditions.

"The plans of the administration toward furthering the St. Lawrence project will help.

"The Agricultural Credit Corporation already has discharged a great service in the areas of distress Further progress in diversification can be made under suitable service by the Department of Agriculture and the various agricultural colleges and local agencies.

"The administration has played a great part in tax relief. The chamber hopes that it will particularly consider the advisability of some form of contact with the governors of each State, that they may facilitate legislative and administrative action—State, county, and municipality—toward the utmost economy, particularly of taxes which rest on farm lands.

"Readjustment of relative freight rates, another important move, appears to have a place in the administration's program.

"We believe that every possible aid should be extended to farm cooperative organizations, except that Government financial assistance should not be used to displace the tried and proven facilities of established industry.

"To some extent the farm acres of America have a choice between producing the traditional but unexpandable food, or being helped to devote an increasing percentage of acreage to production which supplies the limitless market of industrial use. The rapid extension of industrial production, stimulated by science and invention, the demonstration of limitless buying power of our people, should be studied as a great avenue of opportunity for America's producing acres. Not shrinkage of output but intelligently planned production and expanded markets should be the agricultural aims that would enlist the aid of organized business."

Mr. BORAH. Mr. President, I trespass upon the pending order of business long enough also to call the attention of the Senator from Maryland [Mr. BRUCE] to a letter which I received this morning from Hagerstown, Md., which reads as follows:

DEAR SENATOR BORAH—

Then there follows a line which is purely personal—

If Senator BRUCE thinks the Maryland farmers are satisfied with present conditions, he is very much mistaken. I believe that I come in contact with Maryland farmers one thousand times to his once. The Maryland farmer is submerged by the preponderant weight of Baltimore city, but he would have to be a halfwit if he were satisfied with present conditions.

Yours cordially,

THE FARMERS' COOPERATIVE CO.,
By FRANK W. MISH, *President.*

APPROPRIATIONS FOR TREASURY AND POST OFFICE DEPARTMENTS—CONFERENCE REPORT

Mr. WARREN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10982) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1926, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 4, 24, 25, 26, 27, 28, 29, 30, 31, and 32.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 6, 7, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23; and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$20,540"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, amended to read as follows: "two assistant directors"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$460,540"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following: "$75,000, of which amount not to exceed $40,000 may be expended for personal services in the District of Columbia"; and the Senate agree to the same.

The committee of conference have not agreed on amendments numbered 2, 8, and 11.

F. E. WARREN,
REED SMOOT,
THOMAS STERLING,
LEE S. OVERMAN,
WM. J. HARRIS,
Managers on the part of the Senate.
MARTIN B. MADDEN,
WM. S. VARE,
JOSEPH W. BYRNS.
Managers on the part of the House.

The report was agreed to.

URGENT DEFICIENCY APPROPRIATIONS

The PRESIDING OFFICER (Mr. McNARY in the chair) laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 11308) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1925, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal year ending June 30, 1925, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WARREN. I move that the Senate insist on its amendments, that the invitation of the House for a conference be accepted, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. WARREN, Mr. CURTIS, and Mr. OVERMAN conferees on the part of the Senate.

MUSCLE SHOALS

The Senate resumed the consideration of the bill (H. R. 518) to authorize and direct the Secretary of War, for national defense in time of war and for the production of fertilizers and other useful products in time of peace, to sell to Henry Ford, or a corporation to be incorporated by him, nitrate plant No. 1, at Sheffield, Ala.; nitrate plant No. 2, at Muscle Shoals, Ala.; Waco Quarry, near Russellville, Ala.; steam-power plant to be located and constructed at or near Lock and Dam No. 17, on the Black Warrior River, Ala., with right of way and transmission line to nitrate plant No. 2, Muscle Shoals, Ala.; and to lease to Henry Ford, or a corporation to be incorporated by him, Dam No. 2 and Dam No. 3 (as designated in H. Doc. 1262, 64th Cong., 1st sess.), including power stations when constructed as provided herein, and for other purposes.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Alabama [Mr. UNDERWOOD] in the nature of a substitute.

Mr. UNDERWOOD and Mr. HEFLIN called for the yeas and nays, and they were ordered.

The reading clerk proceeded to call the roll.

Mr. SWANSON (when the name of Mr. GLASS was called). My colleague [Mr. GLASS] is unavoidably detained from the Senate. He is paired with the senior Senator from Connecticut [Mr. McLEAN]. If my colleague were present, he would vote "nay."

Mr. McLEAN (when his name was called). I transfer my pair with the junior Senator from Virginia [Mr. GLASS] to the junior Senator from Oregon [Mr. STANFIELD] and vote "yea."

Mr. MOSES (when his name was called). I have a general pair with the junior Senator from Louisiana [Mr. BROUSSARD]. That Senator is absent, but I am informed that if present he would vote as I intend to vote. I therefore vote "yea."

Mr. NORBECK (when his name was called). I am paired with the Senator from Arkansas [Mr. CARAWAY], who if present would vote "yea." If permitted to vote, I should vote "nay."

Mr. SHIPSTEAD (when his name was called. The senior Senator from Arkansas [Mr. ROBINSON] is necessarily absent from the Senate. I am paired with that Senator. If he were present, he would vote "yea," and if I were permitted to vote I should vote "nay."

Mr. HARRISON (when Mr. STEPHENS's name was called). My colleague [Mr. STEPHENS] is unavoidably absent. He is paired with the junior Senator from Minnesota [Mr. JOHNSON]. If my colleague were present, he would vote "yea."

The roll call was concluded.

Mr. RANSDELL. I desire to announce that my colleague [Mr. BROUSSARD] is unavoidably detained at home by illness. I ask that this announcement may stand for the day.

Mr. LADD. I wish to announce that my colleague [Mr. FRAZIER] is absent from the city on account of the death of his sister. He is paired with the Senator from New Jersey [Mr. EDWARDS]. If present, my colleague would vote "nay."

Mr. SHIPSTEAD. My colleague [Mr. JOHNSON of Minnesota] is absent from the Senate, necessarily. He is paired with the Senator from Mississippi [Mr. STEPHENS]. If my colleague were present, he would vote "nay," and I am informed that the Senator from Mississippi would vote "yea."

Mr. WALSH of Montana. I wish to announce that my colleague [Mr. WHEELER] is unavoidably absent. If he were present, he would vote "nay."

Mr. SHIPSTEAD. I have announced my pair on this question with the senior Senator from Arkansas [Mr. ROBINSON]. I find I can transfer my pair with that Senator to the junior Senator from Montana [Mr. WHEELER]. I make that transfer and vote "nay."

Mr. OWEN. I transfer my pair with the Senator from West Virginia [Mr. ELKINS] to the Senator from Louisiana [Mr. BROUSSARD] and vote "yea."

Mr. WARREN (after having voted in the affirmative). I inquire if the junior Senator from North Carolina [Mr. OVERMAN] has voted?

The PRESIDENT pro tempore. That Senator has not voted.

Mr. WARREN. I have a general pair with that Senator, and therefore withdraw my vote.

The result was announced—yeas 46, nays 33, as follows:

YEAS—46

Ball	Ernst	McCormick	Shields
Bayard	Fernald	McKinley	Shortridge
Bingham	Fess	McLean	Spencer
Bruce	George	Means	Stanley
Bursum	Gerry	Metcalf	Sterling
Butler	Greene	Moses	Underwood
Cameron	Hale	Oddie	Wadsworth
Cummins	Harrison	Owen	Watson
Curtis	Heflin	Pepper	Weller
Dale	Keyes	Phipps	Willis
Dial	King	Pittman	
Edge	Ladd	Reed, Pa.	

NAYS—33

Ashurst	Gooding	McKellar	Simmons
Borah	Harreld	McNary	Smith
Brookhart	Harris	Mayfield	Smoot
Capper	Howell	Neely	Swanson
Copeland	Johnson, Calif.	Norris	Walsh, Mass.
Couzens	Jones, N. Mex.	Ralston	Walsh, Mont.
Dill	Jones, Wash.	Ransdell	
Ferris	Kendrick	Sheppard	
Fletcher	La Follette	Shipstead	

NOT VOTING—17

Broussard	Glass	Reed, Mo.	Warren
Caraway	Johnson, Minn.	Robinson	Wheeler
Edwards	Lenroot	Stanfield	
Elkins	Norbeck	Stephens	
Frazier	Overman	Trammell	

So Mr. UNDERWOOD's amendment in the nature of a substitute was agreed to.

Mr. JONES of Washington. Mr. President, it is with much fear and trembling, coming from a State far away, that I, in the presence of my genial friend the junior Senator from Alabama [Mr. HEFLIN], rise to offer a substitute for the amendment just agreed to. Nevertheless, feeling as I do with reference to this matter, I feel that it is within my province and my duty as a Senator that I should in all humility propose the amendment that I intend to propose.

Mr. President, I propose to offer a substitute for the amendment just adopted. It is in line with the substitute that was adopted yesterday by the Senate; and I just want to remark that while I do not want to reflect upon the Senate, it seems to me that if we needed any demonstration of the lack of capacity or ability of the Senate to reach a correct conclusion upon this matter, we have had it demonstrated in this case.

A few days ago the Underwood substitute was adopted, upon a record vote, as against the so-called Norris amendment. Then, on yesterday the Senate adopted a substitute proposed by me over the Underwood provision by a vote of 46, I think, to 33. Then, later in the day, the same Senate, constituted in the same way, upon a record vote adopted the Norris substitute in place of mine; and this morning the same Senate, constituted in the same way, has adopted the Underwood substitute in place of the Norris substitute.

Mr. EDGE. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from New Jersey?

Mr. JONES of Washington. Certainly.

Mr. EDGE. Does not the amendment as proposed by the Senator from Washington encourage that uncertainty still more by postponing the entire consideration of the matter for another seven or eight months, with the prospect of reopening it and taking it up again next December?

Mr. JONES of Washington. Mr. President, I do not think the Senate should act upon important legislation upon the basis that is suggested by the Senator from New Jersey. I do not think the Senate should pass upon important legislation simply to avoid further work or consideration of an important proposition.

Mr. EDGE. The Senator would not imply that we have not given consideration on many occasions to this important matter?

Mr. JONES of Washington. Mr. President, I think many of the Senators are very much in the condition that I am in with reference to these propositions. We do not know very much about what we are agreeing to. The able senior Senator

from Alabama [Mr. UNDERWOOD] knows his bill from A to Z; there is not any doubt about that; but it has been changed and amended until I venture to say that there are not half a dozen Senators on the floor who know what that bill means, or what it will do, or what its provisions are; and in saying that I am not reflecting upon the Senate. It is impossible for us to know under the existing conditions what the terms of that bill are; and the same thing is true to a very large extent of the substitute of the Senator from Nebraska [Mr. NORRIS]. He knows his bill, he knows it thoroughly, he has been studying it and thinking over it for days and weeks, and yet I venture to say there are very few Senators on this floor who know the provisions of that bill.

Now, Mr. President, I am going to propose a substitute that is not difficult to understand. Every Senator will know what it means, at any rate, and know what he is voting for or against the minute it is read by the Clerk at the desk.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. JONES of Washington. I yield.

Mr. McKELLAR. As an illustration of what the Senator is now saying, and I think well saying, in another committee this morning some experts were testifying about the subject of water power developed at another place. One of these experts testified that water power could be capitalized at $500 per horsepower. There is 100,000 water horsepower here and about 80,000 steam horsepower, without regard to the secondary power at all. This plant would naturally be worth, it could be capitalized now, according to these experts, at $90,000,000, and yet we are proposing to rent it out for $1,832,000 a year and to include with it all of the other property and land there.

Mr. JONES of Washington. Mr. President, this is a tremendously important matter, and, with all due deference to my good friend from Alabama, it is a matter of very great importance to the people of my State, too. As I said yesterday, we have spent $125,000,000 upon this proposition; we propose to spend thirty or forty million dollars more, and it will probably cost over $200,000,000 before we get through. It seems to me that the disposition of a proposition like that is of tremendous importance to every section of this country.

Now, just a word as to the changes I have made in the proposal I am going to submit to-day.

On yesterday the Senate adopted a provision providing that the Secretary of War and the Secretary of Agriculture and another person to be appointed by the President should constitute a commission to study this matter, not indefinitely, but to report on the first Monday in December, at the beginning of the next session of Congress. I am providing, in the substitute I intend to propose, that there shall be a commission of five, to be appointed by the President of the United States, to study this matter and report back here on the first Monday in December. The President is not confined to Cabinet officers. The President is given wide discretion as to the members of this commission. Personally, I think it is a far better provision than the one that was in the substitute I proposed yesterday and that the Senate adopted.

That, in brief, is the proposal which I submit. I offer the amendment which I send to the desk as a substitute for the amendment just agreed to.

Mr. HEFLIN. On that amendment I call for the yeas and nays, Mr. President.

Mr. HARRELD obtained the floor.

Mr. UNDERWOOD. Mr. President, will the Senator allow the amendment to be stated?

The PRESIDENT pro tempore. Does the Senator from Washington ask for the reading of the entire substitute?

Mr. JONES of Washington. Yes; I think the entire substitute ought to be read. It is not long.

The PRESIDENT pro tempore. The Secretary will read the proposed substitute.

The reading clerk read the amendment of Mr. JONES of Washington, as follows:

Strike out all after the enacting clause of the bill and insert:

"That five persons, to be appointed by the President of the United States, who, if not public officials of the United States, shall be paid out of the appropriation herein authorized such compensation as may be fixed by the President, be, and they are hereby, constituted a commission to investigate and study the proposal and questions involved in the use and disposition of the water-power resources and property of the United States at and connected with Muscle Shoals and to report to Congress on or before the first Monday in December, 1925, its conclusions and recommendations for the use or disposition of the same. The commission is authorized and directed to use in the work herein authorized such employees of the War and Agricultural Departments as may be detailed for the purpose and as can be used advantageously, and may employ such additional assistants as may be necessary within the limits of appropriations made for such purposes, the compensation of such assistants to be fixed by the commission. The commission may invite proposals for the lease or purchase of such properties, or any part thereof, and in addition to every other manner of using the same report such proposals to Congress, with their recommendations in regard to the same. The appropriation of $100,000 is hereby authorized for carrying out the purposes of this act. Until legislation shall be enacted providing otherwise, the Secretary of War, with the approval of the President, is authorized temporarily to dispose of the power developed at Muscle Shoals from time to time upon such terms as he may deem wise, but no contract for the use of the power shall be made for a longer period than one year. No proposal for a lease of any of the property or resources involved herein for more than 50 years shall be considered. The production of an adequate supply of nitrates for war and fertilizer purposes is hereby declared to be the primary purpose of the Muscle Shoals development, and such purpose shall be given full consideration in the report and recommendations made to Congress hereunder.

"SEC. 2. The Secretary of War is hereby authorized to construct Dam No. 3 in the Tennessee River, at Muscle Shoals, Ala., in accordance with report submitted in House Document 1262, Sixty-fourth Congress, first session: *Provided*, That the Secretary of War may in his discretion make such modifications in the plans presented to such report as he may deem advisable in the interest of power or navigation: *Provided further*, That funds for the prosecution of this work may be allotted from appropriations heretofore or hereafter made by Congress for the improvement, preservation, and maintenance of rivers and harbors."

Mr. HARRELD. Mr. President, I am going to support this amendment of the Senator from Washington [Mr. JONES] if for no other reason than to relieve us from this parliamentary situation into which we have fallen, and which I may say, by the way, is making the Senate rather ridiculous, in my opinion. If this Jones amendment shall not be adopted, then we must take choice between the Underwood bill and the Norris bill, neither of which, in my judgment, is satisfactory.

My principal objection to the Underwood bill is that it proposes to put into the hands of people who have already expressed themselves as favorable to the original Ford offer the power to lease to private companies or corporations this enterprise.

Mr. UNDERWOOD. Mr. President, will the Senator allow me to interrupt him for a moment?

Mr. HARRELD. Certainly.

Mr. UNDERWOOD. The original bill, as I introduced it, provided for the leasing by the Secretary of War, with the approval of the President. That has been amended, and the entire power in regard to leasing will rest in the hands of the President.

Mr. HARRELD. I understand that is the fact, but I do not take back my statement that it puts it into the hands of persons who are avowedly in favor of the original Ford offer, which offer was simply a proposition to hand to Ford on a silver platter this magnificent enterprise.

I have nothing against Mr. Ford. I would be glad to contract with him as a private citizen, but I want a contract which is made between this Government and Mr. Ford, or with anyone else, to be one that is not unilateral in its terms, and I would not and can not vote for a bill which would put into the hands of any person, I do not care who he is, the right to make a trade with Mr. Ford on the basis of his former proposition.

I can not support the Norris bill because it purports to put the Government into the manufacture of fertilizer. It provides that there shall be established at various places in the United States agencies for the sale and distribution of a product which is manufactured by the Government itself, putting the Government directly into private enterprise.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. HARRELD. I yield.

Mr. NORRIS. Certainly the Senator is not questioning the arguments that have been made on the other side against the so-called Norris bill, on the ground that it does not do anything for the farmer? Now, the Senator is objecting to it because it does too much.

Mr. HARRELD. I am not interested in the arguments that are made by others. I am making my own argument. The bill as it is drafted provides that the Government shall not only manufacture fertilizer but that it shall create agencies all over the country for the purpose of selling and distributing it.

One of the main arguments against that position is this: The experts have testified that if every bit of this power were utilized in the manufacture of fertilizer it would not supply one-third of the needs of the United States. Suppose the Government goes into the manufacture of fertilizer and utilizes all the power there is at that plant to manufacture fertilizer and sells it to the public at 1 per cent profit, or at cost. Who is going to manufacture the other two-thirds of the fertilizer the farmers of this country need? Where are you going to find any man or any set of men or any company or corporation willing to go into a business which the Government has preempted? Who is going to manufacture the other two-thirds of the fertilizer this country needs? It will not be manufactured and we will have a shortage of fertilizer in this country. I am not in favor of going to that extent.

There are a great many in the Senate who favor what there is no way of getting because of the parliamentary situation which exists. A great many Members of the Senate are in favor of creating a commission to operate this power plant, and they are willing to have the Government go to the extent of manufacturing fixed nitrogen and selling it at cost to the people who want to manufacture fertilizer. That is the most sensible course to pursue, because, for instance, in my State, which is a considerable distance away from Muscle Shoals, we do not want a fertilizer that is made in Alabama. We want a fertilizer that is made in Oklahoma, where the character of the soil can be studied and analyzed. We want to be able to buy our nitrates and other elements and manufacture the finished fertilizer in the State of Oklahoma, because the freight rates on 40, 60, or 80 per cent of filler that goes into every fertilizer that is manufactured make it almost impossible for us to get our supply of fertilizer from a distance.

Mr. NORRIS. Mr. President, will the Senator yield again?

Mr. HARRELD. I yield.

Mr. NORRIS. I simply wanted to call the Senator's attention to the fact that the bill which he is now condemning, my substitute, provides for all those things he has just enumerated and which he says he wants.

Mr. HARRELD. Is that the McKellar amendment?

Mr. NORRIS. No; that is not the McKellar amendment; those things are found in the bill itself.

Mr. HARRELD. Nevertheless, your bill still contains the provisions which authorizes the Government agency created not only to manufacture but sell and distribute fertilizer. The point I am making is this—and a great many Senators feel as I do on this proposition; they are willing to have the Government generate and sell power. They are willing that the Government shall manufacture fixed nitrogen, if it can be done—and it has not been shown it can be done as yet—at a reasonable price, so as to supply the needs. If the Government can manufacture fixed nitrogen and sell it to be used in the manufacture of fertilizers, we are even willing to go that far. But there is nothing in either of these bills that makes a provision of that sort.

Mr. NORRIS. Yes, there is, Mr. President. I want to correct the Senator.

Mr. HARRELD. The Senator still has the provision in the bill for establishing agencies to sell fertilizer?

Mr. NORRIS. Oh, yes; it is not limited to what the Senator has said. It goes further. The Government can do all the things the Senator has enumerated.

Mr. HARRELD. If you create a Government agency and give it an inch, it will take a yard, and they will be manufacturing fertilizer there and doing nothing else.

The proposal of the Senator from Washington simply puts the matter off until we can intelligently study this proposition. Why not do that? That is what a sensible business man would do. If you do not know what you want to do with the plant, if you have not your minds made up what to do with it, why not study it? It is not a white elephant on our hands. It is not like the Shipping Board. It is not costing the Government $50,000,000 a year to keep it going. If it did, then there would be some reason for getting it off our hands immediately. But here is a plant producing power, and the junior Senator from Nebraska [Mr. HOWELL] has said that if we sell the power alone it will produce some seven or eight million dollars of profit annually. What is the use of being in a hurry to get rid of a piece of property like that, one that is producing revenue for the Government? Why not study the matter? Why not do as the Senator from Washington proposes? Why not create an agency to study the proposition so that we can vote intelligently on it when it comes before us again?

Mr. JOHNSON of California. Mr. President, the parliamentary situation presented here is one all of us deplore. I deplore it particularly because it is not conducive to dignity on the part of the United States Senate. I deplore it, too, because it furnishes the reason, perhaps, to-day for some gentlemen voting in a fashion different from the way they voted yesterday, and I have risen, Mr. President, for the purpose of making plain to gentlemen who may want to change their votes upon the specious plea that they do not propose to continue in a parliamentary merry-go-round, that the vote upon this substitute now closes the incident, so far as they are concerned who advocate and who have fought for the Norris amendment; and, that I may not be indulging in a remark that may not be wholly accurate, I ask whether or not it is the intention of the Senator from Nebraska again to introduce his substitute, provided the Jones substitute carries?

Mr. NORRIS. Mr. President, if the Senator wants me to answer that question he must yield enough time, so that I may answer it intelligently.

I believe, from what I gather, that those who favor the substitute which I have offered, and which I had intended to offer again, are brought face to face this morning with a combination of Underwood Democrats and Coolidge Republicans, so that we must either take the Jones substitute or the Underwood bill. I myself see very little choice between the two. Indeed, the only one thing that induces me to vote for the Jones bill in preference to the Underwood bill is that the Jones bill requires this commission to bring back their recommendations to Congress, and Congress will eventually have to pass on them. As I look at the two propositions, that is the only redeeming feature of the Jones bill, and that is the only reason why I voted for it yesterday, and it is the only reason why I shall vote for it to-day. But, realizing as the friends of my substitute do, that the combination I have mentioned before is sufficient to put one or the other of those propositions across and to defeat the substitute which I myself and the Senator from California and others favor and prefer, I do not intend to offer it again.

Mr. JOHNSON of California. Mr. President, that is the situation. Let no man lay the flattering unction to his soul. therefore, in voting hereafter that he is voting in order to end the parliamentary tangle, or that he is voting in order that an intolerable parliamentary situation may be foreclosed. That I wanted to make emphatically and forcefully plain upon this particular vote.

My attitude upon this proposition is well known. To the limit of what little ability I have, publicly and privately, I have advocated the Norris plan. I come from the West, sir, where we do not fear to have our Government continue with what our Government inaugurates. I come from a territory where we do not tremble whenever it is suggested that the Government of the United States may do what municipalities, what counties, what districts are doing all over this land. I come from a State, sir, where we do not hesitate, when our people are at issue, to have the State do its duty by that people, and do it as a State.

I grant that this view is at variance with the views of many of our brethren of the East, but with this view from the West that is mine, the persuasive part of this discussion has been in the Norris amendment rather than in the proposal of the distinguished Senator from the State of Alabama. I listened to the able Senator from Maryland [Mr. BRUCE] not long ago descant upon the warring philosophies of government in this Nation. He is right; there are two warring philosophies of government in this land. He is right when he says that one of them comes out of the West, and although he deplores it, and although, with his view, as honest as that of ours, he denies that such a philosophy of government should obtain in this Nation, he is right in the assertion the two warring philosophies of government to-day are those presented by him and those of the East who believe like him, and the philosophy of government that is presented by the men who constitute, after all, the first generation of those who made the West.

East is east and west is west in this Government to-day. It is not the line in the aisle of the Senate Chamber that divides us in those philosophies of government. It is not the label that you bear, sir, "Democratic," or mine that is Republican that is the demarcation in our land to-day. That is not it at all. You expressed it, sir, a week or two ago.

I glory in that division, coming from the far Pacific. We believe in our Government. We believe, when our Government expends $150,000,000 of the people's money, that all the people of the United States are entitled to have the Government maintain control and operate that upon which the Government has expended $150,000,000. I grant, too, that all that discussion is past now. Only one question arises. It is the question of whether we shall accept that which is presented by the

Senator from Alabama or that which is presented by the Senator from Washington. I chant no requiem over a lost cause. That cause will survive every one of us here.

The Senator from Nebraska has made a noble and courageous fight. When he began it some many months ago there was no one who stood by his side. On a test vote the other day he had 37 votes against 48 in this Chamber—in a Senate stabilized in conservatism by the last election, perhaps; 37 votes against 48 on his proposition then. Yesterday by a scant one, under the peculiar parliamentary situation which may not have indicated conditions accurately, he carried his proposition. There has been in this contest nothing lost at all, sir.

Peoples have understood. The two philosophies have been ably presented on the other side and ably presented by the Senator from Nebraska. Those two philosophies in the days to come will fight it out in this Nation, fight it out in this body, fight it out in the two parties because it is an internal, internecine strife in each of the dominant parties, fight it out until one or the other of those philosophies shall have become wholly triumphant. But now the question is, Shall we accept the amendment of the Senator from Alabama or that of the Senator from Washington? I care very little for what is presented by the Senator from Washington. I care very much about that which is presented by the Senator from Alabama. I want no precedent established here at this session and now by the passage of the amendment that is offered by the Senator from Alabama. I want no decree of the Senate of the United States at this time that we will proceed in the manner he suggests. I therefore turn, little though I may care for it, to what is presented by the Senator from Washington, and turning to it the last words I say to you, Senators, are that you turn to it as the final conclusion of this whole matter. Therefore remember when we vote upon it that we are voting for the end of the discussion and for the definitive determination of the matter that has so long been before the Senate.

Mr. HEFLIN. Mr. President, I shall detain the Senate but a moment. I am as anxious as anyone in this Chamber to dispose of the pending measure finally.

Before the Senator from Nebraska [Mr. NORRIS], in response to the question of the Senator from California [Mr. JOHNSON], stated that he did not intend to introduce his measure again, I had already told a number of my colleagues on this side that he would not do so, that the plan was to have those who had supported the Norris bill vote for the Jones amendment and defeat outright the Underwood proposal and leave the matter unsettled, postponed for a year, with a commission to be appointed by the President, and to expend a hundred thousand dollars of the people's money when we are trying to reduce taxes and economize in every way possible.

The question in a nutshell is, will we on this side of the Chamber seize the opportunity that is ours to support the Underwood bill, which is the only measure before us now that points the way, that absolutely compels the making of fertilizer at Muscle Shoals, or will we support the measure of the Senator from Washington which postpones the matter, takes it out of the hands of Congress, turns it over to a commission of five to study the question and report back next December, and tell us what to do with it then. I concede to my friend, the able Senator from California, the right to help dispose of this matter. Of course he is interested; he ought to be interested as a Senator from one of the sovereign States in the great sisterhood of States; but I can hardly understand the keen interest the Senator displays along the line of my good friend from Washington, both of them 3,000 miles away from Muscle Shoals. I want to know what it is they are trying to do to us.

The Senator from Washington presents his measure to postpone action and do nothing, to appoint a commission to go to Muscle Shoals where we have already been representing the Congress, studying the question, and reporting on it, and since that time we have had hearings that have filled 8 or 10 large volumes. I have one of them in my desk now containing about 800 pages. We have taken testimony from every conceivable standpoint. We have learned practically all that there is to be learned about Muscle Shoals in the hearings we have had before the Committee on Agriculture and Forestry, of which the Senator from Nebraska [Mr. NORRIS] is chairman. Senators, it cost thousands of dollars to take that testimony. We have it here. Any Senator can read it. We have reported measures. They have been before us for months and years, and here we are in the last days of this session with an opportunity to pass by means of the Underwood bill what we on this side have advocated for four years. His bill authorizes the building of Dam No. 3. His bill provides that the power shall be equally distributed in the States around about. His bill gives the farmer the first chance at the supply of fertilizer. His bill provides that they can not charge over 8 per cent above the cost of production. It guarantees the making of 40,000 tons of fixed nitrogen every year, 2,000,000 tons of fertilizer, one-fourth of the whole supply of the United States. It will, in my judgment, bring down the price of fertilizer to southern farmers $100,000,000 a year. The opportunity is ours from the South to vote for that proposition, to have the fertilizer produced, to settle this question, and settle it right by the Congress rather than send it to a commission to study it, parley over it, and come back a year hence to tell us, the same body that has been so long considering it, what we ought to do with it.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Washington [Mr. JONES].

Mr. RANSDELL. I ask for the yeas and nays on agreeing to the amendment.

The yeas and nays were ordered.

Mr. SIMMONS. Mr. President, I rise simply for the purpose of making a few general observations and then I shall be willing to have a vote taken. I think the Senate by several votes has made it perfectly clear that it is not in favor of the Norris amendment as against the Underwood amendment, but that it is in favor of the Jones amendment as against the Underwood amendment. The situation which confronts the Senate now is whether it is to make a reversal of its expressed preference for the Jones amendment as against the Underwood amendment or not.

The reason assigned by Senators, so far as I have been able to ascertain in conference with Senators, for reversing themselves is that it is necessary to do so in order to break this vicious parliamentary circle into which the Senate has been thrown. The Senator from Nebraska has stated that if the Jones amendment is adopted he will not offer his amendment again. I suppose the Senator from Nebraska realizes, as the balance of us realize, that the Senate has expressed itself directly and indirectly against his amendment, and therefore it would be useless for him to offer it again. I am glad the Senator made that statement, because I myself feel that the former expressions of the Senate make it clear that the division here is between the Jones amendment and the Underwood amendment.

I wish, Mr. President, that we might have upon this vote a sincere and frank expression of the judgment of the Senate upon the merits of the two propositions and that the votes of Senators upon these two propositions should not be based upon some collateral matter which has been injected into the situation by reason of the parliamentary tangle in which we find ourselves. I think the questions involved as between these two propositions are of such public importance that they ought to appeal to the good sense, the conscience, and the judgment of the Senate as being the issues presented, and the votes cast by Senators ought to be the expression of their honest conviction upon such issues.

I would not trouble myself about this matter at all, Mr. President, but that it has come to me that possibly during the recess since yesterday evening a certain element in the Senate has made up its mind to change its former position with reference to these two propositions for the purpose of bringing about a final decision.

I wish to say that, in my judgment, this will be a final decision. So far as I am concerned, it will be a final disposition of the matter, and so far as those who have been cooperating with me are concerned, I am able to say, as a result of conferences with them, that it will be a final disposition. That being so, Mr. President, I wish to take just a moment or two of the time of the Senate further to express my views with reference to the two proposals which are now before us. They fundamentally differ, Mr. President; in the decision of those questions the public is deeply interested; and I think the situation calls for further discussion because of that fact.

Mr. President, I am as anxious as is any Senator in the body to see this great property, which is owned by the Government and upon which the Government expended over $150,000,000, utilized for the purposes for which the investment has been made, and as quickly as it can be done with safety to the best interests of the country; but I am also profoundly convinced that in the condition of the information possessed by the Senate upon this question at this time it would be very unwise, it would be almost reckless for the Senate deliberately to adopt a policy of turning over this property for one-third of what the Government has spent upon it, with the uncertainty that exists as to whether or not the essential purposes sought by this proposed legislation will be accomplished.

Mr. President, the property at Muscle Shoals, outside of any expenditure of money at all, is an asset of inestimable value. If the Government had not put a penny into its development the power, which is Government property, which is wrapped up in the Tennessee River at Muscle Shoals would be worth hundreds of millions of dollars. I repeat, it is the property of the Government, and the Government, if it had not invested a dollar in it, ought not to sell or lease that property for a mere song. When, however, the proposition is made to the American people that the Government shall lease the property together with $150,000,000 worth of improvements which have been made by the Government for 50 years to come, and for a consideration representing less than one-third of the money that the Government has invested in improving it—I say, Mr. President, when we are confronted by that proposition it behooves us to be careful, to say the least; it behooves us, at least, not to take this leap in the dark just because we find ourselves in a parliamentary tangle.

The thing in which I am most interested in connection with the pending bill is that pertaining to the production of fertilizer, in order that we may be liberated from the bondage which we are now under to Chile, and in order that we may secure this element so essential in replenishing the productiveness of the soil and in maintaining that productiveness. That, to my mind, towers above every other consideration in connection with the proposition, except, of course, that of national defense.

I regret the necessity of repeating myself upon this subject, but I am as thoroughly convinced as it would be possible to convince my mind by any array of facts or any line of argument that, if the lease shall be consummated under the terms provided for in the Underwood amendment, while there will be produced probably at this plant a small fraction of the requirements of the Government in time of war, there will be produced at no time during the life of the lease anything like the fertilizer that is necessary to supply the needs of agriculture in this country.

I am also convinced that unless there shall be some provision in the lease—and the amendment of the Senator from Alabama [Mr. UNDERWOOD] does not contain any such provision—requiring the lessee to make every possible investigation with a view to discovering processes by which the quality may be improved and the cost of producing the nitrates at the Muscle Shoals plant may be so reduced as to make it practicable as a fertilizer proposition, we shall in a few years find ourselves in a worse condition, possibly, with reference to our supply of nitrogen than that in which we are to-day.

I made some investigations of a practial character during the recess by addressing inquiries to the mixers and manufacturers of fertilizers in the United States. As a result of those investigations, I was advised that at the present time, by the use of the processes which up to this time have been discovered, cyanamide could not be made and sold without a loss in competition with Chilean nitrates, and that the cyanamide it is possible to make under present conditions is so unsuited to agricultural requirements that, no matter how much of it might be produced, there would be practically little demand for it for agricultural purposes. If that be true, Mr. President, is it not clear that the only chance to give to the farmers what they desire is that there should be developed, through research and experimentation, cheaper methods of producing this article, in the first place, and in the second place, better methods of producing it—methods by which the obnoxious quality that now exists in this material, namely, that it is too caustic, may be eliminated?

The amendment of the Senator from Alabama does not provide for such research and experimentation at all. The proposal of the Senator from Alabama is divided into two major sections. The first six pages of his substitute provide for a lease. The only substantive provision in that portion of the measure is that there may be a lease made by the President upon three conditions, and these are the only conditions set forth. They are, first, that there shall be produced 40,000 tons of nitrogen beginning at the end of six years; secondly, that the rental shall be 4 per cent upon the basis of about $45,000,000; and, third, that the product shall be made at the two plants and only these two plants. As a matter of fact, these two plants do not now possess and likely never will possess the power adequate to make enough cyanamide for the purposes of national defense or to make enough cyanamide for the purposes of fertilizer, or anything like enough, even if developed to their full capacity.

Those are the only three essential provisions in that portion of the substitute of the Senator from Alabama. The remainder of the 21 pages in the Senator's amendment are devoted exclusively to provisions with respect to the formation of a Government corporation for the operation of the plant. It is in that section of the amendment, and not in the section which relates to the lease of the property, that some of the powers in which I am so deeply interested are provided. The power to construct Dam No. 3 is in that section of the amendment, and not in the section with regard to the lease. The provision for research work by the Agricultural Department is in that section of the bill providing for Government operation, and you can not find it anywhere in the section of the bill that provides for a lease.

Mr. President, I say the section that provides for a lease in the Senator's bill applies only to plant No. 1 and plant No. 2. It is said here that undoubtedly it will be leased. What undoubtedly will be leased? Plant No. 1 and plant No. 2; and with that lease goes no provision for any expert examination, investigation, experimentation, or research.

If that is all that is to be leased, then I say this lessee will not be in possession of enough power to accomplish the very purposes that the Senator from Alabama says he has in view. It will not have enough power to furnish this Government with an adequate supply of nitrates. Let us suppose that the nitrates that have been produced have been sold as fertilizer, because we are in peace, and a war suddenly confronts us. We will have to have an adequate supply of nitrogen upon short notice; and here we have not enough power, running all the time for five years, to provide for the annual requirements of a great war on the part of the United States. There is not enough power at plants No. 1 and No. 2, if every ounce of it were employed at its full capacity for every day in the year, to produce one-fifth of the fertilizer that this country requires annually. There is nothing in the lease provision that authorizes the construction of Dam No. 3 and its operation in connection with these two plants that it is proposed we shall lease at Muscle Shoals.

Mr. President, in this situation in which we find ourselves—the apparent inadequacy of the price under the Underwood bill, the uncertainty of our ability without proper research to fix nitrogen in a form that will be of any value at all to the farmer, the certainty that unless the research work is done and great improvements are made, such as have been made in Germany and in other countries and patented, the farmer has no grounds whatever for hope—to dispose of this property under all these circumstances of doubt and uncertainty, all of these circumstances pointing clearly to the inadequacy of the bill to accomplish the purposes which the Congress has in view and which the proponent of the bill says he has in view, it seems to me would be rash. We ought not to content ourselves with passing a bill that thus inadequately deals with a great and vital matter and thus dispose of an asset of inestimable value, upon which the Government has spent $150,000,000, for the paltry rental of 4 per cent upon $43,000,000.

Mr. President, if the proposition of the Senator from Washington is adopted, we will delay only until next December; and in the meantime a commission to study this matter will be appointed by the President of the United States, who all of us believe will do his best to conserve and promote the best interests of the country. When we meet here later we will have more light and more information to guide us and nobody will be hurt.

The Senator from Alabama has accepted an amendment to his bill which provides that after three years the lessees of this plant are to begin to make cyanamide or fixed notrogen. No progress is to be made, if the lessees do not see fit voluntarily to make it, in the matter of manufacturing this product, either for national defense or for fertilizer use in times of peace, for the next three years. Practically, the Senator's bill does not go into effect, so far as accomplishing its professed purpose is concerned, for the next three years, and then the corporation will begin to manufacture it—10,000 tons the first year, 20,000 tons the next year, and 40,000 tons the third year. That makes six years from to-day before they begin to make the 40,000 tons; and then, Mr. President, at the end of six years, according to the amendment which the Senator has accepted, if these lessees, without having made any investigation, without having done anything to improve these processes, without having done anything to cheapen the cost of production, shall come to Congress and say: "We have demonstrated by our operations, by our attempts with the old processes under the old methods, that we can not make cyanamide profitably, and we ask that the provision that we shall manufacture it for fertilizer shall be removed from the contract," it probably will be removed. It is absolutely certain that they will not be able to manufacture it profitably by present processes. It is absolutely certain that they are not going to concern themselves about

the discovery of new and better processes, because they will not want this plant for fertilizer purposes or for national defense purposes. They want it for power purposes. They will want to get rid of the necessity of producing nitrogen as quickly as possible. The Senator's amendment provides a method for them to get rid of it before they have begun to make the 40,000 tons a year stipulated in the bill; and by leaving out of his amendment any requirement that they shall make adequate efforts to discover better methods, he has left it with them and they will solve the problem according to their interest. The Senator has admitted in the discussion that he thought they would lose in the manufacture of cyanamide, and therefore he has made the interest low in order that they might recoup, out of the water power sold, the losses in the manufacture of fertilizer.

Of course we know now what their report will be, and we know now what probably will be the action of Congress, because they will say: "Oh, well, it has been tried, and we can not do it." Manufacturers of fertilizer throughout the country will say: "We have not had any use for your cyanamide produced by these old processes. It is utterly inadequate. It is not a substitute at all for Chilean nitrate. It is not adapted to the purposes of fertilizer." The lessees will be released from the necessity of producing nitrogen for fertilizer, and then what is going to happen?

The Senator says they will have to go on making 40,000 tons a year. For what purpose? If it is not valuable for fertilizer, what are they going to make it for? For national defense? Assuming that those are the only two major, substantial uses of this material—either for fertilizer or for national defense—when you release them from making it for fertilizer, then there is practically no other demand for it; but the Senator says they will have to go on for the balance of the 50 years—that will be 44 years—making 40,000 tons of it a year for national defense, that being the only use then for it, and it being demonstrated that that is the only use for it—national defense. Why, at that rate we will have a mountain of unused cyanamide piled up here in the United States. That being the situation, what will these people say when they come and ask us to release them from making it for fertilizer purposes? They will say at the same time: "After we have made 100,000 or 200,000 tons of it for national defense and laid it by, stored it up for that purpose, why not release us from that provision of it also? Why require us to make it when there is no demand for it, when we have provided enough for national defense already?" The result would be, in two or three years after they had made the 40,000 tons and piled up what was apparently an adequate supply for possible war, that the Congress would release them from that part of the contract; and so we would finally have practically sold this plant for power purposes, and sold it for not more than one-seventh of the value of power in the markets of this country.

Mr. President, in my State there has been a great development of hydroelectric energy. Enormous plants have been installed in the various streams of that State, and others are being installed constantly, because it is an immensely profitable business—probably the most profitable business carried on in the United States to-day. I have been told that the profits of water power, transmitted as it is now hundreds of miles, supplying factories and cities and towns, are quite enormous, making those who develop these powers in a short time very, very wealthy. If you were to go down into my State and propose to buy a water power as extensive as that which the Government has developed at Muscle Shoals, and will with a small expenditure further develop for the insignificant sum that is provided here, it would be considered by business men that you were a fit subject for an insane asylum.

If the Government of the United States wants to give away this property for half a century—and that is what this bill proposes—it ought to be done openly and frankly. We should not do it under cover.

The imagination of man can hardly conceive what the value or the scope of usefulness of that property will be 50 years from now. Yet, with all the increment of the years, multiplying and quadrupling the value of other water powers in this country, this water power will grow no more valuable in dollars and cents to the Federal Government than it is to-day. Fifty years from now the Federal Government will be receiving no more from this property than it will receive in the next fiscal year, if it is rented, although long before that time the property will be worth billions of dollars in all probability.

Mr. President, I have been deeply interested in this matter because I think it a matter of vital public concern. I believe if this Congress passes the Underwood measure, it will not be long before every man in this body who votes for it will feel that he has committed the mistake of his legislative career. I could not by any means at all be induced to vote for it. Feeling as strongly as I do about it, I have probably imposed upon the patience of the Senate, probably repeated myself in some particulars; but I have no apologies to make for the energy I have displayed against the adoption of this proposition. I have done it conscientiously. I believe I have been actuated only by a desire to serve the best interests of my country, and if it passes I shall have the satisfaction of knowing that it passed after I had exhausted all of my humble powers and talents in an effort to save the Congress from such a colossal blunder.

Mr. UNDERWOOD. Mr. President, yesterday when I offered the substitute which is now pending before the Senate I accepted the proposal that was made in the Norris bill in reference to the making of fertilizers. Either through an inadvertence of myself or a mistake of the printer, the word "lessee" was left out in three places. On line 7, page 4, the language should be, "the lessee or the corporation shall manufacture nitrogen." On lines 18 and 19 the language should be, "it is demonstrated to the satisfaction of the lessee or the corporation." On line 20 the language should be, "by it without loss, the lessee or the corporation." The bill deals with both the lessee and the corporation in the alternative. I ask unanimous consent that the bill may be corrected in those particulars.

The PRESIDING OFFICER (Mr. MCNARY in the chair). Is there objection to the request of the Senator from Alabama? The Chair hears none, and the modifications will be made.

Mr. UNDERWOOD. Mr. President, I shall not detain the Senate long. I have listened to the speech of the Senator from North Carolina [Mr. SIMMONS] several times. I know he does not agree with my position, and I am not critical of that fact. I know he agreed with the position of the Senator from Nebraska [Mr. NORRIS], and the position of the Senator from Nebraska and my position are very, very different.

I said in the beginning of this debate that the Senator from Nebraska had presented an excellent power bill, with fertilizer as an incident, and that the bill which I presented is a national defense bill, the nitrogen to be used in peace times for making fertilizer, with the sale of power as an incident. No matter what we have said or what we have done, that has been the clear line of demarcation.

The thing I do not understand about the attack of the Senator from North Carolina on the fertilizer provision is that with the word "lessee," which I have just added this morning, out of it, section 4, the fertilizer provision, is identically the provision that was in the Norris bill when the Senator from North Carolina praised it so highly.

Mr. SIMMONS. Oh, Mr. President, I attacked it upon the ground that the Senator had not provided in the bill, as was provided in the Norris bill, for adequate investigation, for the purpose of perfecting the process. I have said about it to-day what I said yesterday, that the nitrogen produced by present processes is not marketable for the purpose of manufacturing fertilizer. I argued as against the Senator's proposition, first, on the ground that he did not provide for adequate investigations and the perfection of the process, contending there was no incentive. Secondly, that he only disposed of two dams, and they were not of sufficient capacity to supply the demands when run at full power, while the Norris bill provides for experimentation and investigation into the question of whether nitrogen can be produced, and if it can be produced then it is required that it shall be produced in unlimited quantities; and it provides for the construction of another dam to develop 40,000 horsepower, which could also be used in connection with the manufacture of fertilizer and of materials of war.

Mr. UNDERWOOD. Mr. President, I have no doubt that the Senator from North Carolina thinks that is what he said, but I have the RECORD, and I also have my memory. He said in the debate a day or two ago that the amendment of the Senator from Tennessee [Mr. MCKELLAR] to the Norris bill had accomplished the purpose of providing for investigation into the possibility of the production of fertilizers, and if the Senator will look through the RECORD——

Mr. SIMMONS. I did say that the Norris bill as amended by the Senator from Tennessee accomplished that purpose. That purpose is not covered in the amendment which the Senate adopted, however. There is no provision in that amendment for any experimentation whatsoever.

Mr. UNDERWOOD. Of course, the Senator and I can not say black is white and white is black forever; but I took out of the Norris bill section 4, and when I offered the amendment yesterday I struck out my section 4 and offered that in its

place. All I can say to the Senator is that if he will kindly take that portion of the Norris bill, embraced in the amendment offered by the Senator from Tennessee [Mr. McKELLAR], and compare it with section 4 of my proposal, outside of the addition of the word "lessee," he will find that they read the same.

Mr. SIMMONS. The Senator does not mean to say that there is anything in the McKellar amendment, which he accepted and incorporated in his bill, that requires any investigation, or that provides any additional power, except that at plant No. 1?

Mr. UNDERWOOD. No; I am simply calling the Senator's attention to what a day or two ago, when the issue was between this bill and the bill of the Senator from Nebraska, he said was the keynote, the high point, of this legislation—the McKellar amendment; and now he repudiates it as if it were not in the bill. But that is neither here nor there.

Mr. SIMMONS. The Senator should not attempt to put me in that position, because what I did say and what I was contending was that the Norris bill, with this provision, supplemented by the amendment of the Senator from Tennessee, would meet the reasonable requirements.

Mr. UNDERWOOD. I am not going to quarrel with the Senator about the situation. I am sure that if he will refer to his remarks he will find that I am correct; and if I am not correct, I will apologize to him. But I heard him say it. That is neither here nor there, however. Really I preferred the bill as I originally had it, but in order to meet the situation which confronted us I accepted this alternative, and it is in the bill.

The Senator talks about our disposing of this property for $1,000,000. There is nothing in the bill that is before the Senate now—the so-called Underwood bill—providing for the sale of this property. The last thing in the world I would be willing to have consummated would be a sale of the property. My substitute does provide for a lease not to exceed 50 years, and it allows the President of the United States to determine how long that lease shall run. It does provide that the rental shall not be less than 4 per cent on the cost of the dam, but it allows the President of the United States, above that amount, to determine what the rental shall be. All this talk about the Government's interests not being protected is mere imagination, unless you go so far as to say that you are satisfied that the President of the United States will not protect them, because, as the bill now stands, he has to make the contract under which 40,000 tons of fixed nitrogen will be produced for the protection of the country. He has to produce fertilizer within the terms of the McKellar amendment to the Norris bill, and he can not lease it for less than 4 per cent of the cost of the dam, which will be something like $2,000,000 rather than $1,000,000. But that is the minimum. He can not make a lease for more than 50 years, and he can make it for five years if he wishes.

I will come now to the real discussion——

Mr. McKELLAR. Mr. President, will the Senator yield before he leaves that point?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Tennessee?

Mr. UNDERWOOD. I yield.

Mr. McKELLAR. The Senator continually talks about not having confidence in the President to see that he puts in the contract proper provisions for the protection of the Government and the people. Of course, we all know that the most important thing is the provision for the regulation of rates. The President can not put anything in the contract about the regulation of rates that the Congress has not already provided for. The Senator's bill provides for regulation of the rates only by State utility commissions and does not provide for it by the General Government. Is not that true?

Mr. UNDERWOOD. No; it is not true.

Mr. McKELLAR. If the Senator will look at his bill, he will see that it is only in the event there are no State public utility commissions that the Government is allowed to step in, and we all know that the States all have public utility commissions.

Mr. UNDERWOOD. As my bill was originally drawn it provided for the regulation of rates by the States. The Senator from Montana [Mr. WALSH] offered an amendment inserting two paragraphs from the water power act. The Senator from Tennessee supported him in that amendment, and it was agreed to and placed in my bill.

Mr. McKELLAR. I did that, but what did it do? It was a mere makeshift. The amendment that really provided for Government regulation was offered by me and voted down at the request of the Senator from Alabama. I can not be mistaken about it, because on page 19 of the bill of the Senator from Alabama it is provided as follows:

> and whenever any of the States directly concerned has not provided a commission or other authority to enforce the requirements of this section within such State or to regulate and control the amount and character of securities to be issued by any of such parties, or such States are unable to agree through their properly constituted authorities on the services to be rendered or on the rates or charges of payment therefor, or on the amount or character of securities to be issued by any of said parties, jurisdiction is hereby conferred upon the said commission—

And so forth. There is nothing to show even what commission it is.

Mr. UNDERWOOD. I am not responsible for an amendment that the Senator from Tennessee had put on my bill. I did not put it on. I had a bill in which I provided for the States in which the power was used to regulate the proposition. I thought that was proper. I still think it is proper. But the Senator from Tennessee, collaborating with the Senator from Montana, proposed finally two paragraphs from the water power act. The Senator from Tennessee supported that proposal and said it was the correct thing to do, and the Senate agreed with him and the provision is the regulatory provision now in the bill.

Mr. McKELLAR. I will say to the Senator in all frankness that sections 10 and 11, supposed to regulate the lessee in the case, will not hurt any lessee who may get the property.

Mr. UNDERWOOD. I agree with the Senator. I do not think it is as good as the provision in my bill, but I did not strike the provision out of my bill. The Senator from Tennessee did it himself.

Mr. McKELLAR. The provisions in the Senator's bill were not as good as the amendment I offered, which ought to be put in the bill before it becomes a law. We have no business passing a bill without a national regulation of rates.

Mr. UNDERWOOD. Probably the Senator does not know it, but all provisions that regulate rates under the Federal water power act were put in the amendment offered by the Senator from Montana. There were some other provisions about an amortization fund and other questions of that kind in the Federal water power act which the Senate refused to adopt as a part of this bill. But the regulatory portion of the Federal water power act was put in the bill by the Senator from Montana and the Senator from Tennessee. I do not think they ought to criticize my bill about an amendment which they themselves offered and were instrumental in having adopted. That is all I am objecting to. I really did not think it was as good as the original language, but I accept it because it was the decision of the Senate.

Mr. President, I merely want to say in regard to the issue that was raised here this morning, I am sorry the Senator from California [Mr. JOHNSON] is not here now, but I will certainly not say anything derogatory of him. I admire his ability and his earnestness of purpose. I agree with him that there are two great issues before the American people to-day. One is the issue supported by those who desire to go as far as possible with the hand of the Federal Government in reaching into the lives and the business of the American people. There is another great school of philosophy that believes in individualism; that believes the great destiny of this Nation has been worked out by the fact that we have allowed the citizens of America freedom of action in their business, freedom of life in their homes, and that the Government which governs least governs best. I belong to that latter school of philosophy. The Senator from California belongs to the other one. In the course of time that question must be settled, but it is not at issue in this bill. It is not at issue now. It may have been in issue when the bill of the Senator from Nebraska was before the Senate, but there is nothing in the amendment of the Senator from Washington that involves it at all.

I favor the use of the Government plant at Muscle Shoals primarily for the making of nitrates for war purposes and fertilizers for peace purposes, and so does the Senator from Washington. The only real difference that exists, the real issue that is before the Senate to-day, and the only issue, is the question as to whether, under the bill which I have proposed and which is now pending before the Senate, we can cause the President of the United States to make a lease of the properties which will carry out and subserve the original purpose of the legislation enacted in 1916 declaring that these properties should be used in time of war for national defense and in time of peace for making fertilizer for the farmer. That is the law to-day. The Senator from Washington recognizes it and proposes it in his substitute. The whole theory of my bill rests on that proposition. The bill of the Senator from Nebraska was a power bill and not a national defense and fertilizer bill.

The real issue that is before the Senate to-day is whether we shall pass a bill authorizing the President to make a lease of the property, with his hands practically untied, to use it for national defense and fertilizer, or shall we shut up shop when the whole machinery is ready to operate and run and have the President of the United States appoint five commissioners at good salaries—if they are worthy to be commissioners they ought to be paid good salaries, and I do not criticize that, but it is a charge on the Public Treasury—to come back here and tell the Congress what it should do with a piece of property that it has already told itself how it should be taken care of. In 1916 it dedicated this property to national defense in time of war and to fertilizer in time of peace. I see no reason why we should change our conclusion on that point.

When we come to making the lease within the terms of the bill and carrying out its provisions, there may be many men in the Congress of the United States who in character and ability may be able to function as well and as satisfactorily as the President of the United States; but the President of the United States will have the responsibility, because what he does rests on one man. We in Congress have a divided responsibility. So far as I am concerned I am satisfied in my own mind that the President can make a better lease and protect the public interests in reference to the matter in a more satisfactory way if we give him the power to act than if we appoint a commission to come back here and tell us what we are going to do. I have never yet seen the time when the Congress of the United States accepted the advice of any commission it appointed.

Mr. McKELLAR. If the Senator believes that, will he vote for an amendment authorizing and empowering the President of the United States himself, without any fetters or any let or hindrance placed by the Congress, to take charge of the plant and sell it or make such other disposition as he desires? That would put it up to him without having him fettered and hamstrung in the disposition of the plant.

Mr. UNDERWOOD. If we had come to the question of disposing of the property by having an aggregate vote of the Congress on that matter, with its many angles of approach, that might not be a bad idea, but I have no desire to do that, because I think we should make 40,000 tons of nitrogen for national defense under any circumstances. I think the Members of Congress all agree to that and I see no objection being made to it in the bill. I am sure the Senator from Tennessee does not object to the fertilizer provision in the bill, and so long as the lease shall not be made for less than 4 per cent, I think the President can get 4 per cent, and we do not interfere seriously with his handling the proposition by making that limitation.

Mr. President, there are two angles to the situation. Some Senators want something substantial done toward supplying a reasonable amount of nitrogen for national defense in time of war and to aid the farmers with a reasonable amount of fertilizer in time of peace. Others think the property ought to be used for a great water power development. It was dedicated by the Government in 1916 for war purposes in time of war and for the farmers in time of peace. The bill that is before the Senate carries out that dedication and makes it certain—and makes it certain at the earliest hour. After the 1st of July these great wheels of power resting in the Tennessee River will not be lying idle if the bill I propose is passed. They will be earning the money that they were built to earn. True, the amendment of the Senator from Washington provides that they may be leased for a year, but no one thinks for a moment that we can get an adequate rental for them if there is that limitation on their usefulness to those corporations that may desire to use these properties.

The Senate at this hour has reached the final point of determination as to whether or not it is going to do something with these great properties now, or whether it is going to delay action practically for another year, and at that time again possibly find itself incapable of action by reason of the great diversity of opinion here.

Mr. President, unless some other Senator desires to take the floor to speak, I am going to ask for a quorum.

Mr. SMITH rose.

Mr. UNDERWOOD. If the Senator from South Carolina desires now to address the Senate, I will yield to him.

Mr. SMITH. Mr. President, I have once or twice previously spoken at length on this question. I presume we have now come to a final determination, so far as the Senate is concerned, as to what attitude we are going to take.

There are only two propositions now before us. One is embodied in the Underwood provision, and the other, the Jones amendment, involves the postponement of a final decision, so far as a disposition of the property is concerned, for a year.

I stated the other day that the main question involved, so far as I am concerned, is that of carrying out the intent of the original legislation, and that was to determine at Muscle Shoals whether or not nitrates for munition purposes for the defense of the country could be produced in sufficient quantities to meet the needs of the Government. We have not demonstrated that; we have not even finished the dam; we have not determined through scientific research and experimentation what process is the most available.

Allow me to digress here long enough to state that in the discussion of my amendment, which proposed to eliminate from the bill the leasing feature, the fact was developed that the leasing feature in the bill is the one that is going to be carried out if the Underwood amendment shall become a law. The vote of the Senate on the proposition of the Senator from Nebraska [Mr. NORRIS] and on my amendment showed that the majority of the Senate at this time propose that the Government shall take its hands off Muscle Shoals and leave to private endeavor the answer to the question as to whether or not the Government will provide itself with this element for defense. Therefore, it follows as a necessary corollary that it is not proposed to carry out the intent of the original conception of the measure to develop Muscle Shoals and produce there sufficient nitrates for the defense of the Government, and then, during times of peace, a sufficient quantity for agricultural purposes.

The objection I have to the Underwood amendment is that right at the very dawn of the development of this process it proposes not only to turn the plant over to a private corporation but to limit the amount produced, and that no encouragement is proposed to increase the amount or to perfect the process by which the amount may be increased.

Mr. UNDERWOOD. Mr. President, may I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Alabama?

Mr. SMITH. Yes; I yield.

Mr. UNDERWOOD. Why does the Senator say that the amendment limits the amount?

Mr. SMITH. I am predicating that statement, Mr. President, upon a fundamental human principle, that everyone moves along the line of least resistance. There has already been established beyond any question the profitableness of water power. There is great power at Muscle Shoals. The process by which nitrogen may be produced to meet the needs of the Government and the farmers has not yet been perfected. Somebody has got to do the dead work; somebody has got to do the pioneering.

Mr. UNDERWOOD. If the Senator will allow me, I do not want any difference of opinion to exist as to what the amendment provides.

Mr. SMITH. Very well.

Mr. UNDERWOOD. The Senator admits that the amendment provides that the lessee or the corporation must manufacture 40,000 tons of fixed nitrogen?

Mr. SMITH. Yes.

Mr. UNDERWOOD. The amendment does not provide that the lessee shall not go on and manufacture as much more as he desires, does it?

Mr. SMITH. Neither does it say that the lessee shall go on to the limit.

Mr. UNDERWOOD. How could we fix the limit to which the lessee should go? But the amendment does provide——

Mr. SMITH. Yes; but——

Mr. UNDERWOOD. Wait a moment, if the Senator will permit me.

Mr. SMITH. Certainly.

Mr. UNDERWOOD. The amendment provides that the lessee shall produce nitrogen to the full effective capacity of the plant.

Mr. SMITH. Of plant No. 2.

Mr. UNDERWOOD. The other plant has never been operated. And 40,000 tons are required to be produced.

Mr. SMITH. Now, if the Senator will allow me to answer him, I desire to say that is the very crux of this argument. A private corporation is not going to go beyond the point where it is profitable, while the Government would go on seeking to find where production might be made profitable. That is the difference; and, I repeat, that is the crux of the whole argument between the Senator and me. In the empirical stage of the process of producing fixed nitrogen from the air we have not yet arrived at the point where we can say to the American people, "Here is the power and here is the

process, and they can be utilized for the protection of the Government and the benefit of the country."

We have spent $150,000,000 laying the foundation to do what? To demonstrate to the American people whether or not this new scientific process will meet the needs of America and of the Government for a certain commodity. Now it is proposed, when the partial discoveries of science have shown that cyanamide can be made, to lease this property and commit it to this tentative, this first and almost abortive method of the production of nitrogen. It is true that 40,000 tons of nitrogen can be made at plant No. 2. I have here in my desk samples of the results of laboratory tests of a chemically perfected combination of the three ingredients of fertilizer. It is frankly admitted that no attempt as yet has been made to produce it on a commercial scale, but the work has gone far enough to justify the belief that the commodity can be produced on a commercial scale, not the mechanical combination that is now produced by our great fertilizer companies, but a chemical mixture which will relieve the agriculturists of this country of seven-eighths of the freight cost in moving the filler, as it is called, by enabling them to purchase a pure chemical ingredient. I need not go into that now, but I am just pointing out to the Senate, in the interests of agriculture and in the interest of our Government, that a colossal discovery has been made in that artificially we can extract from the air in unlimited quantities the prime ingredient that enters into explosives and the sine qua non of agricultural fertilization.

After we have dedicated Muscle Shoals to that use and have spent $150,000,000 in laying the foundation, without an experiment being made, with no one here assured as to what may be done or may not be done, we propose now to take merely the first initial step, which is the production of cyanamide, and to commit to a lessee the use of nitrate plant No. 2 in order to produce 40,000 tons of cyanamide, which has got to be subjected to different processes before it can become effective for fertilizer purposes, and leave the balance of the property, the development of the power and the stupendous possibilities of the discoveries of science to the lessee's sweet will rather than to you and me, as representatives of the Government, thus forgetting the two fundamental principles which underlie the whole question—the production of an adequate food and clothing supply and the defense of the Government in time of need. We have not begun to solve that question; we have hardly taken the initial step; yet, because we can now manufacture 40,000 tons of nitrogen, it is asked why not lease the property and shut the door to the possibilities of Muscle Shoals? To do that would be just as foolish as to say to a man who has a quart of seed corn that is available now, "You are hungry; grind your corn into meal and eat it and shut out the possibilities of the crop that would grow from the proper planting of that seed corn."

It would be just as foolish as to say where an old pump has lost its suction power and you have a quart of priming water, and you are thirsty, "Drink your priming water and forego the possibility of priming the pump." Muscle Shoals has the possibility of unlimited development. It needs but the fostering care of the Government, and the priming of it by wise legislation to furnish the farmers of this country the necessary ingredients for fertilization not only in nitrates but in phosphoric acid and potash, as is demonstrated by the samples I have in my desk. Mr. President, I would feel derelict in my duty if I stood here and voted to eat the seed corn and to drink the priming water, and let the field and fountain go dry.

The Jones amendment is not all I would have it. God knows I am not going to vote to stop the Government's activities at Muscle Shoals until it shall have demonstrated the answer to the question to which it was dedicated. When we shall have developed the power, utilized the power in the production of the ingredients for which it was dedicated, and have completed the machinery, then will be time enough for us to talk about leasing the property to a private corporation, for we will then know its possibilities, and will then be able to furnish the answer to the American people who have contributed $150,000,000 of their taxes toward this project; but we should not at this stage of the game turn over the whole property to a private corporation, which, if it leases it at all will lease it for profit, and is going to make its profit out of the process that gives the greatest profit with the least effort, which means the development and sale of the power without regard to the production of that for which the American people to-day are crying.

I came near saying that I do not feel called upon to vote for either of these propositions; they are so much at variance with what I believe to be the duty of the Senate in the premises. We have already made appropriations to carry on the construction of the dam. We passed the bill yesterday. The work will go on. The dam will be completed. The power will be developed. What provision have we made, however, that the object for which the dam was built and the power developed shall go pari passu with that? What have we done? If we propose to carry out the purposes for which the law was passed, why do we not appropriate money and employ scientists to go there and utilize that power until they solve the problem that faced us in 1917, and that has faced the farmer every day since he began to till the soil of the Atlantic seaboard?

I hold in my pocket now an instance of the burden that the farmers of this country have to bear. The Senator from Idaho [Mr. BORAH] rose in his place the other day and startled the Senate by reading figures showing how taxes on farm lands have mounted, within a comparatively few years, from $600,000,000 to more than $1,000,000,000. He showed how, in some instances, the taxes were more than the net returns of the proceeds of the farm. That was the legal tax, the tax laid by the States and the Nation. The indirect tax that the farmer has to pay spells the difference between the $7,000,000,000 which he receives and the ultimate value of $30,000,000,000; and I want to read into the RECORD now, Mr. President, that indirect tax, apropos of the very question that we are discussing.

I shall not put the entire letter in the RECORD, because there are in it certain matters that do not pertain to this question; but, writing to me and my colleague and a Representative from the district in which this constituent resides, he says:

> We want to call your attention to a very serious condition that looks like it might be in restraint of trade against the farmer. Every large fertilizer dealer or manufacturer have gotten together on prices and terms in North Carolina, Virginia, and South Carolina, and all have raised their base price $6 per ton. All fertilizer was sold at the factory last year, base 8–33—
>
> That you have heard so much about here—
>
> at $18. To-day all dealers are asking for same fertilizer at factory $24. This is an advance of $6 per ton over last year, and in order to get this price you have to pay for all fertilizer on arrival, bill of lading attached, or sign note for same, with carrying charges added to the rate of $6.

Mr. President, it is significant, and, of course, it is true, that these companies, though they differ in name, do not differ in their selling price. Farm products have not advanced nor has production increased to any appreciable extent in the section from which I come. There is something like 1,000,000 tons of fertilizer used every year, I believe, in my State. I should like to get the correct figures. I believe they are on this map, and I want to get them just as they are. I believe some one has calculated it. He does not give the number of tons, but he gives the amount; $52,446,000 is paid annually for fertilizer in my State. This is about a 25 per cent increase on the price of the fertilizer, and that means a 25 per cent increase on $52,000,000.

That increase is arbitrary. Who knows whether a raise of $6 a ton is justified or not? To whose interest is it to get $6 additional? The interest of the manufacturer, of course; and if he can get it, and get it legitimately, of course he is going to get it. The only source of the nitrogenous ingredient is the same to them all, necessarily controlled, of course, by an aggregation of capital. Their prices are uniform, so there is no competition; and the man who buys it must either now abandon his farm and fail in a crop or be assessed $6 per ton additional for the privilege of making the food for the people and raising that out of which the clothing is made. Do you not believe that it is the duty of the Government to ascertain whether or not these prices are justified?

Much has been said, here and elsewhere, about aiding the farmer. With the universality of education, both academic and real, I believe that the farmer has now entered upon a course which will make him better prepared than ever to solve his own problems. The facilities for communication and transportation, the universal spread of knowledge and facts, have become as available to the man in the sticks as to the man who walks the congested streets of our cities; and they are learning that cooperation, unified selling, gigantic combinations, are the logic of present-day affairs, and that they are ruined forever if they do not organize such combinations for themselves.

We speak here about Government operation and Government control. Time was when it was not indicated. A hundred years ago each man had his own freight train and his own passenger train—a horse and wagon or a horse and buggy—

and he could manage it and manipulate it. It would have been absurd for the Government then to say, "We will take over all the horses and all the wagons and all the buggies and regulate the price that some man may incidentally charge for a stage-coach ride." The thing answered itself, because it was a distribution by natural forces of the means of transportation and freight carriage. With the advent of the monopolistic and imperial power of steam another problem arose. No man could have his own railroad. No man could have his own passenger train and freight train. There had to be a combination of the public to patronize and of capital to construct and of the Government to see that justice was done under this monopoly.

The Government had to take hold of the railroads after we had used them as purely private property for a period of more than 40 years. By the very nature of the imperial power manifested by this monopoly—for it was a monopoly, and is to-day—the Government had to step in not to control it directly but to pass legislation intrusting to the Interstate Commerce Commission the power that controls in the interest of the public this vast monopoly so essential to our civilization.

We did not need any law to determine the rate by which animal carriage should go, because each man had his own. The question of the fertilization of the soil had not arisen, because without small farms at the day of the passing of the Constitution each man could go and clear up virgin soil when the old soil was worn out. To-day the virgin soil has been exploited, and the question is one of maintaining the fertility of the soil, putting back what you subtract in every crop; and from what source is it to come?

The barnyard manure can not meet one one-hundredth part of the necessity of modern agriculture. The rotation of crops can not meet it. If you were to attempt to rotate the crops in the Cotton Belt of the South the world would stand naked for the necessity of the acreage that had been diverted. You have to meet it with artificial fertilization; and the limit has not yet been reached as to the possible production of the soil of the Atlantic seaboard and the Gulf States by the application of fertilizer. Yet, with this great problem manifested as it is by this letter that I have read and by the tremendous aggregate in my State alone of $52,000,000, equivalent to $52 a bale for every bale of cotton made in the State of South Carolina, as much as one-half of its gross value when sold, here is a proposition not committing the Government to make the fertilizer but committing the Government to the development of the process that will tell the American people whether or not this is a source of relief and to what extent it is a source of relief.

There are 8,000,000 tons of this essential product used annually in America. At $20 a ton that amounts to $1,600,000,000 of tax laid upon the people for the privilege of founding and supporting the American population. Yet, with such a stupendous question confronting us, involving in it more for the American people than the solution of the problems arising under the transportation act, involving more than the solution of the problems of national defense—the proper solution of an adequate fertilization of our soil—right on the very threshold of our investigation we propose to turn over the answer to the cry of the American farmer for an adequate supply of fertilizer to the very people who to-day are manufacturing fertilizer and adding this $6 a ton to its price. We can not tell who will be the lessee. It may be the members of this very organization.

I am not going to vote for any proposition for a Government lease or a change of policy until the Government has done that which the original bill bound the Government to do, and settled the question whether or not an adequate supply of this ingredient shall be developed and can be developed and is developed at Muscle Shoals. I shall not vote for the bill of the Senator from Alabama for the reason I have stated, that it shuts the door now. If this bill is passed and this property is leased, that means 50 years of the present stage of the development of this thing—of course not of power. That has a universal market. They are not going to do the final work necessary to develop the process by which they can furnish fertilizer when the fertilizer people now have control of the market and can charge their price within anything like reason. But there is an almost unlimited demand for power. Therefore, as it is a simple, already developed and standardized process, it means that the lessee will devote this plant to the production and distribution of power, and the other proposition will be left aside.

I have listened to the Senator from Alabama, who says that we should agree to his proposition because under it 40,000 tons of nitrogen would be produced. Do not Senators consider that it is our duty to find out whether or not 100,000 tons may be produced, and produced at such a price as to relieve the agricultural interests of this country?

The Jones proposition is simply one to delay final action on the part of the Senate for a year; that is, it provides that the commission therein provided for shall make a report at the end of a year. I believe I would rather take my chances of coming back here and making a plea that the Government shall continue in case the commission does not so recommend it, until it had developed and demonstrated and standardized that for which we have spent this money. I believe it is my duty to defeat any effort to sidetrack this proposition now.

Mr. President, I desired to take the floor and put my position clearly and unmistakably in the RECORD. I believe it is the solemn duty of this body to provide that the Government shall carry on at Muscle Shoals until we have demonstrated what can or can not be done. The Senator from New York [Mr. COPELAND] yesterday rose in his place and read a very learned article, or what purported to be a learned article, from certain scientists, to the effect that the possibility of cheapening the process of extracting nitrogen from the air was all a dream. I never question any possibility of scientific development or discovery. I think the manifestations of the power of science in the domain of natural causes have gone so far that no one may dare become dogmatic. The radio is enough to answer any skeptics, if the airplane and the submarine are not. Surely we have been given the keys of the kingdom so that we may open whatever we desire to open, and we will find a process by which every ounce of fertilizer we take out of the soil in the form of our grain and textile crops can be taken from the air that enriches them all and put back into the soil, and you and I can not delegate that stupendous task to a corporation.

We have established that plant, we have started on the road, and it is our duty to carry on until we have demonstrated the possibilities there. I do not know that I would be adverse to a leasing of the property after the Government had ascertained the full possibility of the Muscle Shoals proposition. But let us not quit now, with the fractional part of 40,000 tons being produced in an imperfect form. Let us not quit now before the dam is built, and the hydroelectric power is hooked up with the manufacturing plant. Let us not quit until we have demonstrated whether or not the project may be carried on along the lines some of us fondly believe may be successful.

Under the Jones amendment a commission would be sent down there. I hope the commission may be wise enough to appreciate the stupendous facts at issue for the Nation and for the people who feed the Nation, and that they will recognize, as Colonel Cooper, the great engineer, recognized, that a private corporation could not carry that project on; that the thing is too big for private enterprise. The Government should go on and develop the project and meet the necessities of the case.

For these reasons, Mr. President, I shall vote against any restriction in the form of a lease or otherwise, looking toward the time when the Government shall know what it has to lease, and I think I perhaps shall vote for the Jones proposition, in that it does at least hold out the hope that we will have another day in court, rather than commit ourselves to this monstrous proposition of quitting now.

Mr. HARRIS. Mr. President, since the Muscle Shoals measure has been before the Senate this session I have been supporting the Norris bill with the McKellar and Smith amendments requiring the manufacture of fertilizers for farmers in times of peace. I do not think there is any comparison between the provisions of the Underwood bill and the Norris bill, so far as the interests of the Government and the interests of the farmers are concerned. I believe the Government and the farmers would be far better off under the provisions of the Norris bill than under those of the Underwood bill. But the Muscle Shoals legislation which Congress will enact will be written in conference by the Senate and House conferees. The conferees can write the Norris proposal or any other provision into the bill, if we vote down the Jones amendment, as the Underwood substitute provides for the Government's leasing or operating this property. I shall vote against the Jones amendment, because it would delay the matter for a year at least, perhaps longer, and would delay the manufacturing of fertilizers which the farmers so much need at reduced prices. The Underwood substitute requires the manufacture of fertilizers and sale direct to the farmers at not exceeding 8 per cent profit just the same as the McKellar and Smith amendments to the Norris bill. The Jones amendment has no such provisions for the manufacture of fertilizers to help the farmers, and his amendment, as I said, would delay this at least a year, and perhaps several years. The Jones amendment authorizes the President to

appoint five men to study the question and report to Congress a year from now.

Under the Underwood bill, as amended by the Senator from North Dakota [Mr. LADD], the President of the United States would have charge of the leasing of the property, and he could appoint five men or any other number to advise him in the matter, and there would be no delay. We could get action at once. There are provisions of the Underwood bill I do not like, but it has been improved by amendments offered by several Senators, and the Senator from Alabama has accepted several changes that have strengthened his measure. He accepted my amendment, which gives farmers preference in the sale of all fertilizers manufactured at the plant. For years we have been trying to secure legislation for the development of Muscle Shoals to make nitrates for munitions in time of war and make fertilizer in time of peace. I state frankly that I do not believe the next Congress, with many new Members, will understand this measure as well as the present Congress or be as friendly to the development of Muscle Shoals, from the standpoint of the views of the farmers and people of my section, as is the present Congress, and for that reason and others I would like to have the present Congress settle the matter. We have already spent more than a hundred millions on this plant. Dam No. 2 will be completed before July 1, and something should be done before that time.

I am glad to say that in the votes which have been cast on this measure of the men who have been fighting for the development of Muscle Shoals since it has been before this body the past several years have been voting the same way I have voted. Most of the Senators who have been by their votes and influence trying to kill this legislation for years have been voting on the other side. I am glad to have been with the original friends of the development of Muscle Shoals in the votes I have cast.

I voted against the Jones amendment yesterday, and I shall vote against it to-day, as I am opposed to delaying this legislation. I hope the conferees without delay will agree on some bill which I can support when their report is presented to the Senate and to the House.

The other day the Senator from Maryland [Mr. BRUCE] went out of his way to criticize me because I offered an amendment which passed the Senate giving preference to the farmers in the sale of fertilizers manufactured as provided under the Underwood substitute. Except for that amendment, the fertilizer companies could have bought every pound of fertilizer produced at Muscle Shoals, and it would have been of no help whatever to the farmers of our section.

The Senator from Maryland has referred several times to the $75,000,000 invested by the people of his city in fertilizer plants, and I think it is not becoming in him to criticize me for trying to help the farmers of my section, when he practically admits that the $75,000,000 invested by his citizens is what is influencing him in opposing the manufacture of fertilizers at Muscle Shoals in times of peace.

If the farmers of the section from which I come do not prosper the Senator's home city, Baltimore, would suffer more than any city in the United States, because it gets its trade more directly from my section.

Unless the farmer's condition improves, the South will suffer more than it has already suffered. Many thousand farmers in my State have worked hard the past four years, and through no fault of their own have lost their farms. While conditions are better, they are very much worse than you would believe from what you see in the newspapers. Our farmers have not been making a living, though they have worked hard, and I intend to do what I can to help them at every opportunity, regardless of the criticism of the Senator from Maryland or anyone else.

I hope, Mr. President, that the conferees will agree on a bill which will be satisfactory to both Houses of Congress, and that under its provisions our Government will be independent in time of war of any other country for nitrates, which is absolutely essential for our national defense, and that in peace times fertilizers may be manufactured at Muscle Shoals and sold to the farmers at a much lower price than at present. Our cotton farmers under boll-weevil conditions can not raise cotton at a profit unless they can get cheaper fertilizers. Congress has helped the railroads by allowing higher freight and passenger rates; Congress has given the manufacturers large profits by increasing the tariff rates on the goods they manufacture—the farmer and his family must pay higher prices for everything they buy and higher freight rates on what he produces, but Congress has done nothing to help the farmer get better prices or greater profits on what he produces. Now is our opportunity to do justice to the farmer by having this Government plant at Muscle Shoals in peace times manufacture fertilizers and sell to the farmers at a low price so that they may make a profit. This Government plant must be ready in time of war to furnish nitrates for the manufacture of munitions.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Ferris	McCormick	Shields
Ball	Fess	McKellar	Shipstead
Bayard	Fletcher	McKinley	Shortridge
Bingham	George	McLean	Simmons
Borah	Gerry	McNary	Smith
Brookhart	Gooding	Mayfield	Spencer
Bruce	Greene	Means	Stanley
Bursum	Hale	Metcalf	Sterling
Butler	Harreld	Moses	Swanson
Cameron	Harris	Neely	Trammell
Capper	Harrison	Norris	Underwood
Copeland	Heflin	Oddie	Wadsworth
Couzens	Howell	Overman	Walsh, Mass.
Cummins	Johnson, Calif.	Owen	Walsh, Mont.
Curtis	Jones, N. Mex.	Pepper	Warren
Dale	Jones, Wash.	Phipps	Watson
Dial	Kendrick	Pittman	Weller
Dill	Keyes	Ralston	Willis
Edge	King	Ransdell	
Ernst	Ladd	Reed, Pa.	
Fernald	La Follette	Sheppard	

Mr. RANSDELL. I wish to announce that my colleague [Mr. BROUSSARD] is necessarily absent on account of illness.

The PRESIDENT pro tempore. Eighty-one Senators having answered to their names, a quorum is present. The question is upon agreeing to the amendment in the nature of a substitute proposed by the Senator from Washington [Mr. JONES]. Upon that question the yeas and nays have been ordered, and the Clerk will call the roll.

The reading clerk proceeded to call the roll.

Mr. McLEAN (when his name was called). I transfer my pair with the junior Senator from Virginia [Mr. GLASS] to the junior Senator from Louisiana [Mr. BROUSSARD], and vote "nay."

Mr. MOSES (when his name was called). I have a general pair with the junior Senator from Louisiana [Mr. BROUSSARD]. That Senator is absent, but I am informed that he would vote on this question as I intend to vote, and, therefore, I will vote. I vote "nay."

Mr. SHIPSTEAD (when his name was called). I am paired with the senior Senator from Arkansas [Mr. ROBINSON]. I transfer that pair to the junior Senator from Montana [Mr. WHEELER] and vote "yea."

Mr. WALSH of Montana (when Mr. WHEELER's name was called). My colleague, the junior Senator from Montana [Mr. WHEELER], is unavoidably absent. Were he present he would vote "yea."

The roll call was concluded.

Mr. McNARY. My colleague, the junior Senator from Oregon [Mr. STANFIELD], is necessarily absent. He is paired with the junior Senator from New Jersey [Mr. EDWARDS]. Were my colleague present he would vote "yea." Were the Senator from New Jersey present he would vote "nay."

Mr. CURTIS. I was requested to announce that the junior Senator from South Dakota [Mr. NORBECK] is paired with the junior Senator from Arkansas [Mr. CARAWAY]. If the junior Senator from South Dakota were present he would vote "yea." If the junior Senator from Arkansas were present he would vote "nay."

Mr. LADD. My colleague, the junior Senator from North Dakota [Mr. FRAZIER], is absent from the city on account of the death of his sister.

Mr. SHIPSTEAD. My colleague, the junior Senator from Minnesota [Mr. JOHNSON], is paired with the junior Senator from Mississippi [Mr. STEPHENS]. If my colleague were present, he would vote "yea."

Mr. RANSDELL. My colleague, the junior Senator from Louisiana [Mr. BROUSSARD], is absent on account of sickness.

Mr. HARRISON. My colleague, the junior Senator from Mississippi [Mr. STEPHENS], is paired with the junior Senator from Minnesota [Mr. SHIPSTEAD]. If my colleague were present he would vote "nay."

The result was announced—yeas 38, nays 43, as follows:

YEAS—38

Ashurst	Gooding	Neely	Simmons
Borah	Harreld	Norris	Smith
Brookhart	Howell	Overman	Sterling
Capper	Johnson, Calif.	Pepper	Trammell
Copeland	Jones, N. Mex.	Ralston	Wadsworth
Couzens	Jones, Wash.	Ransdell	Walsh, Mass.
Cummins	La Follette	Reed, Pa.	Walsh, Mont.
Dill	McKellar	Sheppard	Weller
Ernst	McNary	Shipstead	
Ferris	Mayfield	Shortridge	

NAYS—43

Ball	Fernald	Keyes	Phipps
Bayard	Fess	King	Pittman
Bingham	Fletcher	Ladd	Shields
Bruce	George	McCormick	Spencer
Bursum	Gerry	McKinley	Stanley
Butler	Greene	McLean	Swanson
Cameron	Hale	Means	Underwood
Curtis	Harris	Metcalf	Warren
Dale	Harrison	Moses	Watson
Dial	Heflin	Oddie	Willis
Edge	Kendrick	Owen	

NOT VOTING—15

Broussard	Frazier	Norbeck	Stanfield
Caraway	Glass	Reed, Mo.	Stephens
Edwards	Johnson, Minn.	Robinson	Wheeler
Elkins	Lenroot	Smoot	

So the amendment of Mr. JONES of Washington in the nature of a substitute was rejected.

Mr. McKELLAR. Mr. President, I offer an amendment by way of a substitute which I ask may be read at the desk.

The PRESIDENT pro tempore. The Chair inquires whether the substitute is essentially different from the substitute offered by the Senator from Washington [Mr. JONES]?

Mr. McKELLAR. It differs in these particulars. In the first place, it turns over to the President of the United States the powers carried in the so-called Jones amendment. In the next place, it gives the President the power to negotiate the sale or lease of the property, and when he has negotiated it to submit it subject to the approval of the Congress.

Mr. HARRISON. Mr. President, may I ask the Senator a question?

Mr. McKELLAR. Certainly.

Mr. HARRISON. Do I correctly understand that the substitute proposes to give to the President the power to sell the property?

Mr. McKELLAR. To lease or sell, subject to the approval of Congress.

Mr. HARRISON. Does it provide anything as to the regulation of rates in the event that it should be leased or as to the consideration in the event it should be sold?

Mr. McKELLAR. It does not. I ask that the amendment be read.

Mr. WARREN. May we have the amendment read?

The PRESIDENT pro tempore. The Clerk will read the proposed substitute.

The READING CLERK. In lieu of the amendment made as in the Committee of the Whole insert:

That the President of the United States be, and he is hereby, authorized and empowered to investigate and study the proposals and questions involved in the use and disposition of the water-power resources and property of the United States at and connected with Muscle Shoals and to report to Congress on or before the first Monday in December, 1925, his conclusions and recommendations for the use or disposition of the same. The President is authorized and directed to use in the work herein authorized such employees of the War and Agricultural Departments as can be used advantageously, and may employ such additional assistants as may be necessary within the limits of appropriations made for such purposes. The President may invite proposals for the lease or purchase of such properties, or any part thereof, and accept the offer he deems best, subject to the approval of the Congress. The appropriation of $100,000 is hereby authorized for carrying out the purposes of this act. Until legislation shall be enacted providing otherwise, the President is authorized temporarily to dispose of the power developed at Muscle Shoals from time to time upon such terms as he may deem wise, but no contract for the use of the power shall be made for a longer period than one year. No proposal for a lease of any of the property or resources involved herein for more than 50 years shall be considered. The production of an adequate supply of nitrates for war and fertilizer purposes is hereby declared to be the primary purpose of the Muscle Shoals development, and such purpose shall be given full consideration in the report and recommendations made to Congress hereunder.

SEC. 2. The Secretary of War is hereby authorized to construct Dam No. 3 in the Tennessee River at Muscle Shoals, Ala., in accordance with report submitted in House Document 1262, Sixty-fourth Congress, first session: *Provided*, That the Secretary of War may in his discretion make such modifications in the plans presented in such report as he may deem advisable in the interest of power or navigation: *Provided further*, That funds for the prosecution of this work may be allotted from appropriations heretofore or hereafter made by Congress for the improvement, preservation, and maintenance of rivers and harbors.

Mr. McKELLAR. Mr. President, it is the purpose of the substitute to turn the property over to the President of the United States unfettered by the restrictions that are proposed to be placed on him by the Underwood proposal. If we are going to turn this matter over to the President, we ought to give him a free hand. We ought to let him make the best trade possible. For instance, I am informed to-day by a witness in another hearing not on this subject that the power at Muscle Shoals is probably worth and can be financed on the basis of a value of $500 per horsepower. For the primary horsepower that is developed at that plant that would make it worth somewhere in the neighborhood of $90,000,000.

Manifestly, if the power is worth $90,000,000, we ought to receive more than $1,832,000 rent for it. The President ought not to be hampered. If we are going to turn the property over to him, we ought to turn it over to him and let him act. The Senator from Alabama [Mr. UNDERWOOD] has repeatedly stated to-day that we ought to trust the President. If we are going to trust the President, let us trust him fully. Do not let us hamper him by putting restrictions in his way. Those restrictions may prevent his making the best lease of the property. Why not turn it over to him absolutely, freely, with the one proposal that he is to submit his action to Congress after it shall have been taken? That would be a business-like way in which to handle this proposition.

I hope that the amendment may be adopted and, if no other Senator desires to speak, I ask for the yeas and nays upon it.

Mr. HEFLIN. Mr. President, I make the point of order against the Senator's amendment that it is the Jones amendment over again. It has been twice voted on by the Senate. The Jones amendment provided that the President should appoint a commission to do exactly what this amendment now provides for; the commission was to report back to Congress, and it was also given the power to lease or sell the plant. This amendment proposes to do the very same thing. It is, in substance, the Jones amendment over again. I therefore make the point of order against the amendment.

Mr. McKELLAR. Mr. President, I take it that no argument is necessary on the point of order. The amendment is certainly not the same as the Jones amendment.

The PRESIDENT pro tempore. The Chair at this stage of the proceedings intends to submit the point of order to the Senate. The Chair, however, is of the opinion that unless there is a substantial difference between the Jones amendment and the one now offered by the Senator from Tennessee the amendment is not in order. The Chair no longer cares to take the responsibility of deciding whether or not there is that substantial difference.

Mr. HEFLIN. Mr. President, in order to save time, I withdraw the point of order. Let us vote on the amendment.

SEVERAL SENATORS. Vote!

Mr. McKELLAR. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. McLEAN (when his name was called). Making the same transfer of my pair as before, I vote "nay."

Mr. MOSES (when his name was called). Repeating the announcement which I made on the previous vote in reference to my pair and its transfer, I vote "nay."

Mr. SHIPSTEAD (when his name was called). Making the same announcement as before, in reference to the transfer of my pair, I vote "yea."

The roll call was concluded.

Mr. SHIPSTEAD. I desire to state that my colleague the junior Senator from Minnesota [Mr. JOHNSON] is paired with the junior Senator from Mississippi [Mr. STEPHENS]. If the Senator from Minnesota were present, he would vote "yea," and the Senator from Mississippi would vote "nay."

Mr. JONES of Washington. I desire to state that the Senator from New York [Mr. WADSWORTH] is absent on official business. I do not know how he would vote if he were present.

Mr. HARRISON. As has been stated by the senior Senator from Minnesota, my colleague [Mr. STEPHENS] has a general pair with the junior Senator from Minnesota [Mr. JOHNSON]. If my colleague were present, he would vote "nay" and, as I understand, the Senator from Minnesota would vote "yea."

The result was announced—yeas 29, nays 52, as follows:

YEAS—29

Ashurst	Harreld	Mayfield	Shipstead
Borah	Howell	Neely	Simmons
Brookhart	Johnson, Calif.	Norbeck	Walsh, Mass.
Copeland	Jones, N. Mex.	Norris	Walsh, Mont.
Couzens	Jones, Wash.	Overman	Weller
Dill	La Follette	Ralston	
Ferris	McKellar	Ransdell	
Gooding	McNary	Sheppard	

NAYS—52

Ball	Ernst	Ladd	Shields
Bayard	Fess	McCormick	Shortridge
Bingham	Fletcher	McKinley	Smith
Bruce	George	McLean	Smoot
Bursum	Gerry	Means	Spencer
Butler	Greene	Metcalf	Stanley
Cameron	Hale	Moses	Sterling
Capper	Harris	Oddie	Swanson
Cummins	Harrison	Owen	Trammell
Curtis	Heflin	Pepper	Underwood
Dale	Kendrick	Phipps	Warren
Dial	Keyes	Pittman	Watson
Edge	King	Reed, Pa.	Willis

NOT VOTING—15

Broussard	Fernald	Lenroot	Stephens
Caraway	Frazier	Reed, Mo.	Wadsworth
Edwards	Glass	Robinson	Wheeler
Elkins	Johnson, Minn.	Stanfield	

So Mr. McKELLAR's amendment in the nature of a substitute was rejected.

The PRESIDENT pro tempore. The question now is, Will the Senate concur in the amendment made as in Committee of the Whole as amended?

The amendment as amended was concurred in.

The PRESIDENT pro tempore. The bill is in the Senate and open to further amendment. If there be no further amendment to be proposed in the Senate, the question is, Shall the amendment be engrossed and the bill read a third time?

The amendment was ordered to be engrossed and the bill was read the third time.

The PRESIDENT pro tempore. The question is, Shall the bill pass?

Mr. McKELLAR. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. NORRIS. Mr. President, before the bill shall pass, I wish to say a few words. From the beginning it has been repeatedly argued by the Senator from Alabama [Mr. UNDERWOOD] and others favorable to his amendment that that measure was entirely a fertilizer proposition and that the committee bill and later on the substitute offered by me were entirely power propositions. While that statement has been repeated many times, and I have taken occasion heretofore to deny it, I wish in passing, because it has been repeated dozens of times since my denial, again most emphatically to deny that statement. The bill as now amended and as we are soon to vote upon its final passage is less of a fertilizer proposition, at least from the standpoint of those who favor the Underwood proposal originally, than it was in the beginning. As the Senator from North Carolina [Mr. SIMMONS] so ably pointed out this morning, there is practically no provision in the bill as it is now before us for investigations and experimentations with a view of cheapening the cost of fertilizer. That is particularly true if a lessee shall take over the property under the bill.

All the evidence that has been taken by the Agricultural Committee from scientific men and others with practical experience and knowledge has demonstrated, without any contradiction, that the process for the extraction from the air or from the earth or from rock of the ingredients of fertilizer and for the mixing and making of a practical fertilizer afterwards is, as one Senator has heretofore put it, in its incipiency. While men of great ability have studied the question for many years in all parts of the world, it has never been so diligently studied and so laboriously worked upon as since the Great War, when the importance of the fertilizer question was made so manifest to all civilization. All the experts agree that the tendency of the times in developing processes to improve and cheapen the cost of the extraction, for instance, of nitrogen from the atmosphere is toward the utilization of less and less power, and all the studies and experiments which have been made have brought forth the knowledge that after the improvements are made less power is required than previously. So scientific men practically agree that, so far as the fertilizer proposition is concerned, in the extraction of nitrogen from the air as the process may be and probably will be improved in the future the question of power will be almost entirely eliminated.

Mr. President, the bill as it now is framed has no provision for study, for investigation, for experimentation. The bill reported by the committee had the most complete and extensive provisions for experimentation and for investigation on a large scale that have ever been attempted in the civilized world. I make that statement advisedly and without any fear of successful contradiction. It did take into consideration, however, a fact that we believed to be true from the evidence, and that was that at the present time, with all the knowledge of science, it is necessary that improved and cheaper methods be devised and invented for the extraction of nitrogen from the air and the extraction of the other ingredients of fertilizer from rock and from earth; that we must improve and cheapen those processes before we can expect to reduce the cost of fertilizer to the farmer. We must likewise cheapen the method of mixing fertilizer after we have the ingredients extracted, and that is one of the most important problems of all. That of itself would reduce the cost of fertilizer to the farmer a third. The committee bill and the substitute afterwards offered by me recognized that fact, because we believed it to be true. We did not want to practice any deception upon the country. We wanted to make no promise that was untrue.

Originally the Underwood bill provided that fertilizer having a nitrate ingredient of 40,000 tons per annum must be produced. As the bill now stands, it has no such provision in it. I did not think that was wise; I argued all the time that that was unfair; but, at least, if you want to make cheap fertilizer you must recognize the fact that we do not know how and we ought to learn how. We ought to experiment, we ought to provide for experiment, in order that we can produce it. The present bill does not do it. It will be a disappointment, in my opinion. Therefore it reduces itself to a power proposition.

Moreover, the present bill provides for the building of Dam No. 3. We have not yet done anything with that dam except to make borings and surveys. We have not even acquired any of the land that is going to be overflowed. We have not been to any expense except as I have noted. This bill provides for the building of Dam No. 3, but it nowhere makes any provision as to what shall be done with Dam No. 3 when it is built. There is no provision that it shall be operated by the Government; that it shall be leased; or that anything shall be done with it. It makes no further provision for the development of the Tennessee River.

If this is a fertilizer proposition, then in the name of God why do you put Dam No. 3 in it? Because Dam No. 2 and the steam plant there will produce more power than will be required to produce 40,000 tons of nitrogen per annum. So, as far as the fertilizer proposition is concerned, you have no more use for Dam No. 3 than a wagon has for a fifth wheel.

I only wanted to show that after all this talk about being a fertilizer proposition is a camouflage pure and simple. It is a power proposition. It does not go after the power in any scientific way. The way to get cheap power at Muscle Shoals or any other stream, particularly in the South, where there is a great difference between high and low water, is to develop a stream as a whole, to build the dams where they ought to be built, to build storage dams, and to take the whole stream as one proposition. That is what the committee bill did. That is what the bill did which I offered as a substitute, so that we would have converted secondary power at Dam No. 2 and Dam No. 3 into primary power. It would have been a scientific development of the Tennessee River and all its tributaries. But the people of the South, or some of them at least, did not want it. Neither of the Senators from Alabama wanted it, and the Senate has acted in accordance with their wish.

Mr. President, I wanted to make these observations before the matter closed, because the Committee on Agriculture and Forestry, starting in three years ago, have devoted a great deal of time to this question. I said at the beginning of this debate that we did not seek the job. Personally, I did not want it. I was afraid it would be a thankless task. I was afraid that those who were going to get the most benefit of it, under the peculiar conditions that it seemed to me existed then, were going to be the ones to condemn any honest and fair investigation unless we reached the conclusion that they were right.

Mr. President, if Dam No. 3 is not necessary for fertilizer, and this is solely a fertilizer proposition—and those who advocate it say that that is all there is in it—then Dam No. 3 ought to be out of this bill, in all honesty. Dam No. 3 is going to cost $25,000,000 of the taxpayers' money. It will come from the Dakotas, it will come from California, it will come from Idaho and Michigan and Nebraska, and from all over the country. Our people will contribute to it, and what are we going to do with it?

Mr. President, I think you have thrown Dam No. 2 into the lap of the General Electric Co. You have thrown that great dam and all its value over into the hands of the Power Trust; and, manifestly, when Dam No. 3 is built right down there in that vicinity the person who has Dam No. 2 ought to have Dam No. 3, and that is going to be the next move. We are going to build it with public funds, we are going to tax our people to build it; and then we shall be asked, when it is built, to turn it over, the same as we have already turned over Dam No. 2.

If the Electric Trust or any of its subsidiaries or any other corporation or any other individual is going to get the benefit of Dam No. 3, then for God's sake let them put up the money

to build it, and not ask the taxpayers to do it. It is not a question of Alabama alone; it is a question of the entire country. I should be glad, Mr. President, as we provided in the bill that I introduced and that the committee reported, to have us pay for the building of Dam No. 3 out of the public funds if it would be used for the public; but I am opposed to going into the Treasury of the United States and spending millions and millions of the taxpayers' money and turning it over to private interests. We do not do that anywhere else; we do not do that in the general dam act. Why should we do it here?

Mr. President, so far as my personal efforts were concerned, I was and am very much opposed to the Underwood bill. I say that with the greatest of respect for all those who are behind it on both sides of the Chamber. I realize that the Underwood bill could not have passed if it had not been for some unseen power over here that changed 10 Republican votes since yesterday. I was told a half hour before the vote was taken the exact number of votes that were going to be changed. I checked them up, and found that my information was absolutely right. I reached the conclusion, after my study of the question—and if I was prejudiced anywhere I was unconscious of it—that the Government ought to keep this property; that we had spent so much of the taxpayers' money there that we ought to utilize it for the benefit of the people. While I realized that the people of the South were going to get the greatest benefit of all, I had no objection to that. I thought we ought to see what we could do about cheapening fertilizer to agriculture; and in all the bills that have ever been proposed in Congress, in this country or any other, there never was another one that provided for as much and as extensive a method of trying to cheapen fertilizer to agriculture as did the committee bill.

I realize, Mr. President, that we are defeated. Personally, I feel it very sincerely and deeply. I am not sorry, however, that I made the effort, weak as it was. It seems to me, however, that I have devoted two or three years of my life to almost continual labor for an unselfish purpose, and that either I have been a failure all the way through, or the efforts that I have put forth, humble as they were, have not been appreciated. I choose to think that the former proposition is right.

I do not find fault with the Senator from Alabama because he had to get and did get Republican votes to put his bill through, and that he could not put it through without the backing of the administration. I offer no criticism of that. He was perfectly justified, as far as I know, in every step that he has taken; but he has a bill which, in my humble opinion, will prove to be a disappointment to future generations. I think we are giving away in this bill valuable assets that belong to millions of unborn citizens. We are setting a precedent here of using the money of the taxpayers to build up valuable properties and turn them over not only to private interests, but, as I believe will be the outcome, to some one connected with the great Electric Trust; and it is not necessary to criticize anybody when I say that is what I believe, because in carrying out the provisions of this bill I do not know where any one would go to drop this great prize unless he dropped it in the lap of the Power Trust. Any ordinary individual who undertook to finance it would not get to first base unless he surrendered to the trust to get the money.

So I felt that before we voted finally on this proposition I wanted to call attention, modestly and briefly, to the fact that the bill we are now passing is a power bill. There will be no fertilizer produced under it. It is a power bill, and it does not develop the power scientifically or economically. It picks out of a great system, capable of producing more than a million horsepower, two places without making any provision for the conversion of secondary power into primary power, one of the secrets of success in the hydroelectric world. It does nothing scientifically. We never will have power developed there as cheaply as we ought to have or would have if we properly developed the Tennessee River. It claims to be entirely a fertilizer proposition, and yet, assuming that to be true, it has in it provision for building Dam No. 3, which will cost $25,000,000, out of the taxpayers' money, without making any provision in this bill as to what shall be done with it when it is finished.

To my mind, without criticising anybody for his view, I can not conceive of a much worse disposition of Muscle Shoals than that we are about to make. I hope I may be wrong. Perhaps I am overzealous in the matter, and I may be overestimating the damage to the country which I think will accrue from this disposition. I could not have voted for the Jones amendment as a substitute for the Underwood amendment if I had not thought that the Underwood bill was as bad as it could be made, because I have no sympathy for the Jones proposal. As far as I am concerned, I would vote for the Jones amendment if it stood alone, and I could only bring myself to vote for it—and it was after some hesitation that I did vote for it—because I felt it was a choice between two evils. There was not much difference between the two. One thing which gave me some hope was that in the next session Congress would have another opportunity to take the matter up, and it might be that in the meantime the great public would crystallize its sentiment in such a way and in such form that no Congress would dare to take the resources of our Government and throw them into the lap of monopoly.

The PRESIDENT pro tempore. The quesion is as to whether or not the bill shall pass. The yeas and nays have been ordered, and the Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. SHIPSTEAD (when the name of Mr. JOHNSON of Minnesota was called). My colleague [Mr. JOHNSON] is paired with the junior Senator from Mississippi [Mr. STEPHENS]. If my colleague were here and not paired, he would vote "nay" on the passage of the bill.

Mr. McLEAN (when his name was called). Making the same announcement of my pair and its transfer as before, I vote "yea."

Mr. MOSES (when his name was called). Making the same announcement regarding my pair and its transfer as on the prior vote, I vote "yea."

Mr. SHIPSTEAD (when his name was called). I have a pair with the senior Senator from Arkansas [Mr. ROBINSON], which I transfer to the junior Senator from Montana [Mr. WHEELER], and vote "nay."

Mr. HARRISON (when Mr. STEPHENS' name was called). My colleague [Mr. STEPHENS] has a pair on this question with the junior Senator from Minnesota [Mr. SHIPSTEAD]. If my colleague were present, he would vote "yea."

The roll call was concluded.

Mr. KING. Upon this vote I have a pair with the junior Senator from New Jersey [Mr. EDWARDS]. Not knowing how he would vote, I am compelled to withhold my vote. If permitted to vote, I would vote "nay."

Mr. WALSH of Montana. I again announce the unavoidable absence of my colleague [Mr. WHEELER]. If present, he would vote "nay."

Mr. WALSH of Massachusetts. The junior Senator from New York [Mr. COPELAND] is unavoidably absent. If present, he would vote "nay."

Mr. LADD. My colleague [Mr. FRAZIER] is absent from the city. If he were present, he would vote "nay."

The result was announced—yeas 50, nays 30, as follows:

YEAS—50

Ball	Fess	McKinley	Smoot
Bayard	Fletcher	McLean	Spencer
Bingham	George	Means	Stanley
Bruce	Gerry	Metcalf	Sterling
Bursum	Greene	Moses	Trammell
Butler	Hale	Oddie	Underwood
Cameron	Harris	Owen	Wadsworth
Curtis	Harrison	Pepper	Warren
Dale	Heflin	Phipps	Watson
Dial	Kendrick	Pittman	Weller
Edge	Keyes	Reed, Pa.	Willis
Ernst	Ladd	Shields	
Fernald	McCormick	Shortridge	

NAYS—30

Ashurst	Gooding	McNary	Shipstead
Borah	Harreld	Mayfield	Simmons
Brookhart	Howell	Neely	Smith
Capper	Johnson, Calif.	Norris	Swanson
Couzens	Jones, N. Mex.	Overman	Walsh, Mass.
Cummins	Jones, Wash.	Ralston	Walsh, Mont.
Dill	La Follette	Ransdell	
Ferris	McKellar	Sheppard	

NOT VOTING—16

Broussard	Elkins	King	Robinson
Caraway	Frazier	Lenroot	Stanfield
Copeland	Glass	Norbeck	Stephens
Edwards	Johnson, Minn.	Reed, Mo.	Wheeler

So the bill was passed.

Mr. UNDERWOOD. Mr. President, the title of the bill as it came from the House is not applicable to the bill as it has passed the Senate, and I move that the title be amended to read as I send it to the desk.

On motion of Mr. UNDERWOOD, the title was amended so as to read: "A bill to provide for the national defense, for the production and manufacture of fixed nitrogen, commercial fertilizer, and other useful products, and for other purposes."

The bill as passed is as follows:

Be it enacted, etc., That the United States nitration fixation plants Nos. 1 and 2, located, respectively, at Sheffield, Ala., and Muscle Shoals, Ala., together will all real estate and buildings used in connection therewith; all tools, machinery, equipment, accessories, and materials thereunto belonging; all laboratories and plants used as auxiliaries thereto, the Waco limestone quarry in Alabama, and any others used as auxiliaries of said nitrogen plants Nos. 1 and 2; also Dam No. 2 located in the Tennessee River at Muscle Shoals, its power house, its auxiliary steam plants, and all of its hydroelectric and operating appurtenances, together with all machines, lands, and buildings now owned or hereafter acquired in connection therewith, are hereby dedicated and set apart to be used for national defense in time of war and for the production of fertilizers and other useful products in time of peace.

SEC. 2. Whenever, in the national defense, the United States shall require all or any part of the operating facilities and properties or renewals and additions thereto, described and enumerated in the foregoing paragraph of this act, for the production of materials necessary in the manufacture of explosives or other war materials, then the United States shall have the immediate right, upon five days' notice to any person or persons, corporation, or agent, in possession of, controlling, or operating said property under any claim of title whatsoever, to take over and operate the same in whole or in part, together with the use of all patented processes which the United States may need in the operation of said property for national defense.

The foregoing clauses shall not be construed as modified, amended, or repealed by any of the subsequent sections or paragraphs of this act, or by indirection of any other act.

SEC. 3. In order that the United States may have at all times an adequate supply of nitrogen for the manufacture of powder and other explosives, whether said property is operated and controlled directly by the Government or its agents, lessees, or assigns, under any and all circumstances at least 10,000 tons the third year, 20,000 tons the fourth year, 30,000 tons the fifth year, and thereafter 40,000 tons of fixed nitrogen must be produced annually on and with said property, and no lease, transfer, or assignment of said property shall be legal or binding on the United States unless such adequate annual production of fixed nitrogen is guaranteed in such lease, transfer, or assignment.

SEC. 4. Since the production and manufacture of commercial fertilizers is the largest consumer of fixed nitrogen in time of peace, and its manufacture, sale, and distribution to farmers and other users, at fair prices and without excessive profits, in large quantities throughout the country is only second in importance to the national defense in time of war, the production of fixed nitrogen as provided for in this act shall be used, when not required for national defense, in the manufacture of commercial fertilizers. In order that the experiments heretofore ordered made may have a practical demonstration, and to carry out the purposes of this act, the lessee or the corporation shall manufacture nitrogen and other commercial fertilizers, mixed or unmixed, and with or without filler, according to demand, on the property hereinbefore enumerated, or at such other plant or plants near thereto as it may construct, using the most economic source of power available, with an annual production of these fertilizers that shall contain fixed nitrogen of at least 10,000 tons the third year, 20,000 tons the fourth year, 30,000 tons the fifth year, and 40,000 tons the sixth year: *Provided*, That if after due tests, and the practical demonstration of six years herein provided for, it is demonstrated to the satisfaction of the lessee or the corporation that nitrates can not be manufactured by it without loss, the lessee or the corporation shall cease such manufacture and shall report to the Congress all pertinent facts with respect to such costs with its recommendation for such action as the Congress may deem advisable.

The farmers and other users of fertilizer shall be supplied with fertilizers at prices which shall not exceed 1 per cent above the cost of production.

SEC. 5. That the President is hereby authorized and empowered to lease the properties, either separately or as a whole, enumerated under section 1 of this act, with proper guaranties for the performance of the terms of the lease, for a period not to exceed 50 years: *Provided*, That said lease shall be made only to an American citizen, or citizens, or to an American-owned, officered, and controlled corporation; and, if leased, in the event at any time the ownership in fact or the control of such corporation should directly or indirectly come into the hands of an alien or aliens, or into the hands of an alien-owned or controlled corporation or organization, then said lease shall at once terminate and the properties be restored to the United States. The Attorney General of the United States is given full power and authority, and it is hereby made his duty to proceed at once in the courts for cancellation of said lease in the event said properties are found to be alien owned or controlled and are not voluntarily restored. The lessee being required and obligated to carry out in the production of nitrogen and the manufacture and sale of commercial fertilizer the purposes and terms enumerated in sections 1, 2, 3, and 4 of this act, and such other terms not inconsistent therewith as may be agreed to in the lease contract. The lessee shall pay an annual rental for the use of said property an amount that shall not be less than 4 per cent on the total sum of money expended in the building and construction of Dam No. 2 at Muscle Shoals and the purchase and emplacement of all works and machinery built or installed in connection therewith for the production of hydroelectric power: *Provided*, That in addition to the annual rental herein stipulated, the lessee shall set up and maintain an adequate reserve as fixed in the lease for depreciation, upon which the United States shall have a prior lien, in connection with the following properties, to wit: (1) Dam No. 2 and power equipment; (2) the steam-electric plants at nitrate plants No. 1 and No. 2; and (3) nitrate plant No. 2. Such reserve for depreciation shall at all times be of such an amount that when added to the physical value of such property at any time shall at least equal the appraised value thereof when turned over to the lessee: *Provided further*, That in case of nitrate plant No. 1, excluding power plant, the value thereof shall be appraised at the time said property is turned over to the lessee and provision made in lease for the lessee's accounting for the value of such property at the termination of lease. The lease shall also provide the terms and conditions under which the lessee may sell and dispose of the surplus electric power created at said plants. The lease shall also provide for the protection of navigation at said Dam No. 2 and the operation of the locks connected therewith. The lease contemplated in this section shall be made with the understanding that the United States shall complete and have ready for operation Dam No. 2 and the locks connected therewith, together with the plants and machinery for the production of electric power, and that after the lease is entered into the lessee shall maintain the property covered by the lease in good repair and working condition for the term of the contract.

Time shall be made of the essence of the contract herein provided for, and failure on the part of the lessee to comply with the terms of said contract shall render the same terminable at the option of the United States, provided that written notice of the exercise of such option shall be served upon the lessee at any time within one year following any breach of said contract. Whereupon the property covered by said lease shall be turned over, without expense, to the United States upon demand, and said lessee shall be liable for any damage sustained by the United States as a consequence of said lease and the acts of said lessee.

SEC. 6. In the event the President is unable to make a lease under the terms of the power herein granted to him before the 1st day of September, 1925, then the United States shall maintain and operate said properties described in section 1, in compliance with the terms and conditions set forth in sections 1, 2, 3, and 4 of this act, and under the power and authority prescribed and granted in the following sections of this act:

SEC. 7. That the President is hereby authorized and empowered to designate any five persons to act as an organization committee for the purpose of organizing a corporation under authority of and for the purposes enumerated in this act.

ORGANIZATION

The persons so designated shall, under their seals, make an organization certificate which shall specifically state the name of the corporation to be organized, the place in which its principal office is to be located, the amount of capital stock, and the number of shares into which the same is divided, and the fact that the certificate is made to enable the corporation formed to avail itself of the advantages of this act. The name of the corporation shall be the Muscle Shoals Corporation.

The said organization certificate shall be acknowledged before a judge of some court of record or notary public and shall be, together with acknowledgment thereof, authenticated by the seal of such notary or court, transmitted to the President, who shall file, record, and carefully preserve the same in his office. Upon the filing of such certificate with the President, as aforesaid, the said corporation shall become a body corporate and as such and in the name of Muscle Shoals Corporation have power—

First, to adopt and use a corporate seal;

Second, to have succession for a period of 50 years from its organization, unless it is sooner dissolved by an act of Congress or unless its franchise becomes forfeited by some violation of law;

Third, to make contracts, and no such contract shall extend beyond the period of the life of the corporation;

Fourth, to sue and be sued, complain, and defend in any court of law or equity;

Fifth, to appoint by its board of directors such officers and employees as are not otherwise provided for in this act, to define their duties, to fix their salaries, in its discretion to require bonds of any of them, and to fix the penalty thereof, and to dismiss at pleasure any of such officers or employees;

Sixth, to prescribe by its board of directors by-laws not inconsistent with law regulating the manner in which its general business may be conducted and the privileges granted to it by law may be exercised and enjoyed;

Seventh, to exercise by its board of directors or duly authorized officers or agents all powers specifically granted by the provisions of this act and such incidental powers as shall be necessary to carry on the business for which it is incorporated within the limitations prescribed by this act; but such corporation shall transact no business, except such as is incidental and necessary preliminary to its organization, until it has been authorized by the President to commence business under the provisions of this act.

The corporation shall be conducted under the supervision and control of a board of directors, consisting of five members, to be selected by the President. The directors so appointed shall hold office at the pleasure of the President. The President shall designate a chairman of the board, who shall have power to designate one of the others as vice chairman. The vice chairman shall perform the duties of chairman in the absence of the chairman. Not more than two of such directors shall be appointed from officers in the War Department.

The board of directors shall perform the duties usually appertaining to the office of directors of private corporations and such other duties as are prescribed by law.

POWERS OF THE CORPORATION

The corporation shall have power—

(a) To purchase, acquire, operate, and develop in the manner prescribed by this act and subject to the limitations and restrictions thereof the following properties owned by the United States:

1. United States nitrate-fixation plants Nos. 1 and 2, located, respectively, at Sheffield, Ala., and Muscle Shoals, Ala., together with (a) all real estate used in connection therewith; (b) all tools, machinery, equipment, accessories, and materials thereunto belonging; (c) all laboratories and plants used as auxiliaries thereto, the Waco limestone quarry in Alabama, Dam No. 2, at Muscle Shoals, and the hydroelectric-power plant connected therewith, together with the steam plants used as auxiliaries of the United States fixed-nitrogen plants Nos. 1 and 2, together with all other property described in section 1 of this act.

2. To construct, purchase, maintain, and operate all such buildings, plants, and machinery as may be necessary for the production, manufacture, sale, and distribution of fixed nitrogen and other forms of commercial fertilizer.

3. Any other plants or parts of plant, equipment, accessories, or other properties belonging to the United States, which are under the direct control of the President or of the War Department, and which the President may deem it advisable to transfer, convey, or deliver to said corporation for use in connection with any of the purposes of this act or for any purpose incidental thereto.

(b) To acquire, establish, maintain, and operate such other laboratories and experimental plants as may be deemed necessary or advisable to assist it in furnishing to the United States Government and others, at all times, nitrogen products for military or other purposes in the most economical manner and of the highest standard of efficiency.

(c) To sell to the United States such nitrogen products as may be manufactured by said corporation for military or other purposes.

(d) To sell any or all of its products not required by the United States to producers or users of fertilizers or to others: *Provided*, That in the sale of such products not required by the United States Government preference shall be given to those persons engaged in agriculture: *Provided further*, That if such products are sold to others than users of fertilizers the corporation shall require as a condition of such sale the consent of the purchaser to the regulation by the corporation of the prices to be charged users for the products so purchased or any product of which the products purchased from the corporation shall form an ingredient.

(e) The operation of the hydroelectric-power plant and steam-power plants at Muscle Shoals and the use and sale of the electric power to be developed therefrom that is not required to carry out the terms imposed by sections 1, 2, 3, and 4 of this act.

(f) To enter into such agreements and reciprocal relations with others as may be deemed necessary or desirable to facilitate the production and sale of nitrogen products on the most scientific and economic basis.

(g) To purchase, lease, or otherwise acquire United States or foreign patents and processes or the right to use such patents or processes.

(h) To obtain from the United States or from foreign governments patents for discoveries or inventions of its officers or employees as a condition of their employment to enter into agreements with the company that the patents for all such discoveries or inventions shall be and become in whole or in part the property of the corporation.

(i) To assume any or all obligations of the United States entered into in connection with the construction, maintenance, and operation of the plants to be transferred to the corporation under the provisions of this act.

(j) To deposit its funds in any Federal reserve bank, or with any member bank of the Federal reserve system.

(k) To sell and export any of its surplus products not purchased by the United States or by persons, firms, or corporations within the United States.

(l) To invest any surplus of available funds not immediately used for the operation, construction, or maintenance of its plants or properties in United States bonds or other securities issued by the United States.

(m) To lease or purchase such buildings or properties as may be deemed necessary or advisable for the administration of the affairs of the corporation or for carrying out the purposes of this act; and with the approval of the President to lease to other persons, firms, or corporations, or to enter into agreements with others for the operation of such properties not used or needed for the purposes named herein. In the operation, maintenance, and development of the plants purchased or acquired under this act the corporation shall be free from the limitations or restrictions imposed by the act of June 3, 1916, and shall be subject only to the limitations and restrictions of this act.

CAPITAL STOCK AND BONDS

The capital stock of the corporation shall consist of 100 shares of common stock of no par value. The corporation shall also issue an amount of 20-year bonds bearing interest at the rate of 5 per cent per annum, which shall be a first lien on the property of the corporation and in an amount not to exceed $50,000,000, to be sold from time to time as needed to carry out the purpose of this act: *Provided*, That the principal and interest of said bonds shall be paid by the Secretary of the Treasury out of funds in the Treasury not otherwise appropriated upon default at any time in payment as herein provided by the corporation. The terms for the sale of said bonds shall be approved by the President. If at the end of any fiscal year after the eighth year after the commencement of business, as authorized by the Secretary of War, the corporation shall not have earned net sums sufficient to meet the interest on said bonds as evidenced by audits of the accounts of said corporation by the President, the corporation shall forthwith cease operations and shall not resume until authorized so to do by the Congress.

In exchange for the properties purchased or acquired from the United States and from time to time transferred, conveyed, or delivered to the corporation by the President or the Secretary of War, and for all unexpended balances now under the control of the Secretary of War and applicable to the nitrate plants at or near Muscle Shoals, Ala., the corporation shall cause to be executed and delivered to the President a certificate for all of the common stock of the corporation. The certificate shall be evidence of the ownership by the United States of all stocks of the corporation.

In consideration of the issuance of such common stock to the President, the President is authorized and empowered to transfer, convey, and deliver to the corporation all of the real estate, buildings, tools, equipment, supplies, and other properties, belonging to, used by, or appertaining to the plants and properties to be acquired by the corporation under the terms of this act, and to transfer, convey, and deliver as and when he may deem it advisable any other equipment, accessories, plants, or parts of plants, or other property referred to in this act, and which the corporation is authorized to acquire or purchase from the United States under its provisions.

DISTRIBUTION OF EARNINGS

All net earnings of the corporation not required for its organization, operation, and development shall be used—

(a) To pay interest on the bonds and create a fund for their payment;

(b) To develop and improve its plants and equipment;

(c) To create a reserve or surplus fund until such fund amounts to $2,500,000;

(d) The remainder to be paid as dividends on the stock into the Treasury of the United States as miscellaneous receipts.

MISCELLANEOUS

The corporation shall not have power to mortgage or pledge its assets or to issue bonds secured by any of its properties except as hereinbefore provided.

The United States shall not be liable for any debts, obligations, or other liabilities of the corporation.

The corporation and all of its assets shall be deemed and held to be instrumentalities of the United States, and as such they and the income derived therefrom shall be exempt from Federal, State, and local taxation. The directors, officers, attorneys, experts, assistants, clerks, agents, and other employees of the corporation shall not be officers or employees of the United States within the meaning of any statutes of the United States, and the property and moneys belonging to said corporation, acquired from the United States or from others, shall not be deemed to be the property and moneys of the United States within the meaning of any statutes of the United States.

The accounts of the corporation shall be audited under the regulations to be prescribed by the President, who shall annually report to Congress a detailed statement of the fiscal operations of said corporation.

SEC. 8. That the President is hereby authorized and directed to complete the construction of Dam No. 3 and the necessary approach to the locks in Dam No. 2 in the Tennessee River at or near Muscle Shoals, Ala., in accordance with report submitted in House Document 1262, Sixty-fourth Congress, first session: *Provided*, That the President may, in his discretion, make such modifications in the plans presented in such report as he may deem advisable in the interest of power or navigation.

SEC. 9. The surplus power not required under the terms of this act for the manufacture of nitrogen or fertilizer shall be sold for distribution.

SEC. 10. That as a condition of any lease entered into under the provisions of this act every lessee hereunder which is a public-service corporation, or a person, association, or corporation developing, transmitting, or distributing power under the lessee, either immediately or otherwise, for sale or use in public service, shall abide by such reasonable regulation of the services to be rendered to customers or consumers of power, and of rates and charges of payment therefor, as may from time to time be prescribed by any duly constituted agency of the State in which the service is rendered or the rate charged. That in case of the development, transmission, or distribution, or use in public service of power by any lessee hereunder or by its customer engaged in public service within a State which has not authorized and empowered a commission or other agency or agencies within said State to regulate and control the services to be rendered by such lessee or by its customer engaged in public service, or the rates and charges of payment therefor, or the amount or character of securities to be issued by any of said parties, it is agreed as a condition of such lease that jurisdiction is hereby conferred upon the commission created by the act of Congress approved June 10, 1920, upon complaint of any person aggrieved or upon its own initiative, to exercise such regulation and control until such time as the State shall have provided a commission or other authority for such regulation and control: *Provided*, That the jurisdiction of the commission shall cease and determine as to each specific matter of regulation and control prescribed in this section as soon as the State shall have provided a commission or other authority for the regulation and control of that specific matter.

SEC. 11. That when said power or any part thereof shall enter into interstate or foreign commerce the rates charged and the service rendered by any such lessee, or by any subsidiary corporation, the stock of which is owned or controlled directly or indirectly by such lessee, or by any person, corporation, or association purchasing power from such lessee for sale and distribution or use in public service, shall be reasonable, nondiscriminatory, and just to the customer and all unreasonable discriminatory and unjust rates or services are hereby prohibited and declared to be unlawful; and whenever any of the States directly concerned has not provided a commission or other authority to enforce the requirements of this section within such State or to regulate and control the amount and character of securities to be issued by any of such parties or such States are unable to agree through their properly constituted authorities on the services to be rendered or on the rates or charges of payment therefor, or on the amount or character of securities to be issued by any of said parties, jurisdiction is hereby conferred upon the said commission, upon complaint of any person aggrieved, upon the request of any State concerned, or upon its own initiative to enforce the provisions of this section, to regulate and control so much of the services rendered, and of the rates and charges of payment therefor as constitute interstate or foreign commerce and to regulate the issuance of securities by the parties included within this section, and securities issued by the lessee subject to such regulations shall be allowed only for the bona fide purpose of financing and conducting the business of such lessee.

The administration of the provisions of this section, so far as applicable, shall be according to the procedure and practice in fixing and regulating the rates, charges, and practices of railroad companies as provided for in the act to regulate commerce, approved February 4, 1887, as amended, and that the parties subject to such regulation shall have the same rights of hearing, defense, and review as said companies in such cases.

In any valuation hereunder for purposes of rate making no value shall be claimed or allowed for the rights granted by this act or under any lease executed thereunder.

SEC. 12. If any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SEC. 13. No lease made under the terms of this act shall be transferred without the approval of the President of the United States.

The right to amend, alter, or repeal this act is hereby expressly reserved.

ISLE OF PINES TREATY

The PRESIDENT pro tempore. Pursuant to the unanimous-consent agreement entered into at a former date, the Senate now passes into open executive session for the consideration of what is known as the Isle of Pines treaty.

The Senate, in open executive session, proceeded to consider the treaty between the United States and Cuba signed March 2, 1904, for the adjustment of title to the ownership of the Isle of Pines.

Mr. BORAH. Mr. President, the Senators who are interested in the Isle of Pines treaty are not ready to proceed this afternoon, and I think it is agreeable that the treaty shall be laid aside, and that we proceed with the naval appropriation bill. If there is no objection, I ask that that be the procedure.

Mr. SWANSON. I would like to modify the request to this extent, that after the conclusion of the morning business to-morrow, if we take an adjournment to-day, the Senate shall, in open executive session, resume the consideration of the Isle of Pines treaty.

Mr. BORAH. I have no objection.

Mr. SWANSON. I ask unanimous consent that that be the procedure. At that time I purpose to address the Senate. I do not wish to do so at this late hour in the afternoon.

Mr. MOSES. I shall have to object if the Senator means the routine morning business. If the Senator means at the conclusion of the morning hour, I shall have no objection.

Mr. SWANSON. I have no objection to making it at the conclusion of the morning hour. I ask that at 2 o'clock to-morrow, at the conclusion of the morning hour, the consideration of the Isle of Pines treaty shall be proceeded with in open executive session.

Mr. HALE. Will not the Senator consent to allow the naval appropriation bill to come up now and to be made the unfinished business? I will agree to lay it aside to-morrow afternoon so that the Senator may proceed.

Mr. SWANSON. I would like to have this understanding.

Mr. McCORMICK. Reserving the right to object, it seems to me that either the Senator from Idaho or the Senator from Virginia might propose an agreement by unanimous consent for the consideration of the treaty at the conclusion of the morning hour, whether the naval appropriation bill has been acted upon or not.

The PRESIDENT pro tempore. I think the Chair should state at this time that it has given some consideration to the unanimous-consent agreement, that in its opinion the unanimous-consent agreement has been fully executed by the Chair laying the treaty before the Senate in open executive session, and that, so far as the future is concerned, the procedure depends upon the action of the Senate.

Mr. McCORMICK. Surely, the agreement may be modified by unanimous consent.

The PRESIDENT pro tempore. Undoubtedly.

Mr. MOSES. Are we not attempting now to secure a unanimous-consent agreement with reference to the proceedings for the balance of this day, and for the portion of the day after the morning hour to-morrow?

The PRESIDENT pro tempore. If the Senate enters into a unanimous-consent agreement to go into executive session after the morning hour to-morrow for the consideration of this treaty, that, of course, will be complied with. But if the Senate does not make an agreement of that character, in the opinion of the Chair the question will not again arise until, on motion of some Senator, the Senate enters into open executive session.

Mr. MOSES. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. MOSES. May I ask if the unanimous-consent agreement proposed by the Senator from Virginia is not an agreement of the character which the Chair has just described?

The PRESIDENT pro tempore. The Chair does not pass upon that question. It is a perfectly simple request. Anyone can construe it.

Mr. HALE. Mr. President——

Mr. BORAH. If I am permitted, I think I can dispose of the matter before us, and then the Senator from Maine can proceed with the naval appropriation bill. I ask unanimous consent that to-morrow at the close of the morning hour the Senate shall proceed to the consideration of the Isle of Pines treaty in open executive session.

The PRESIDENT pro tempore. The Senator from Idaho asks unanimous consent that upon the expiration of the morning hour on Thursday, being to-morrow, the Senate in open executive session shall proceed to the consideration of the Isle of Pines treaty. Is there objection?

Mr. McCORMICK. Reserving the right to object, will the treaty remain the unfinished business in executive session thereafter until acted upon?

The PRESIDENT pro tempore. It will remain the unfinished business when the Senate is in open executive session; not otherwise. It is for the Senate to determine when it shall enter upon an open executive session. Is there objection to the unanimous-consent agreement proposed by the Senator from Idaho?

Mr. KING. Mr. President, I have no objection to the proposition of the Senator from Idaho, with one qualification, namely, that we shall proceed with the formal reading of the naval appropriation bill this afternoon, passing by any objected matter, and that the naval appropriation bill shall not be disposed of until after the Isle of Pines treaty has been taken up to-morrow. If we finish the treaty to-morrow afternoon, then I have no objection to going on with the naval appropriation bill.

Mr. BORAH. Oh, no.

The PRESIDENT pro tempore. Does the Senator propose that as a modification of the agreement?

Mr. KING. Yes; I do.

Mr. WARREN. The Senator in charge of the naval appropriation bill has already stated that he would pursue that course, and it does not seem necessary to get unanimous consent when the Senator in charge of the bill has stated that he will lay it aside for the further consideration of the Isle of Pines treaty.

Mr. HALE. I want to be in a position with reference to the naval appropriation bill to take it up as soon as I can do so. It may be, after the Senate enters upon the consideration of the Isle of Pines treaty, that it will again decide it is not ready to proceed, in which case I shall wish to proceed with the consideration of the naval appropriation bill.

Mr. KING. I merely want to express the view that the Senator from Maine differs from the Senator from Wyoming. I do not know which has authority to speak. I should prefer upon this matter to look to the Senator from Maine.

Mr. WARREN. I intended to agree entirely with what the Senator from Maine said. I am very sorry if I have differed in any way from his proposal. I could not of course differ with my friend from Utah.

Mr. HALE. I move that the Senate proceed to the consideration of House bill 10724, the naval appropriation bill.

Mr. SWANSON. Mr. President, I understood I was recognized to address the Senate as soon as the Isle of Pines treaty was laid before the Senate. I addressed the Chair, and understood that he recognized me. Of course, if I may not have an opportunity to speak at 2 o'clock to-morrow I wish to make my speech this afternoon. This is the first time I have ever known a Senator to request at this late hour in the afternoon that a matter go over until 2 o'clock on the following day when the courtesy has not been extended to him.

Mr. HALE. I have already said that if I could get the naval appropriation bill before the Senate this afternoon I would be very glad to have the Senator proceed with his address on the treaty to-morrow at 2 o'clock. All I want to do is to get the naval appropriation bill before the Senate at this time.

Mr. BORAH. If the Senator from Maine will not confuse legislative business with executive business, we will soon dispose of the question without any trouble. What we ought to do is first to dispose of that which relates to the executive part of the business of the Senate. If I can have my proposed unanimous-consent agreement adopted, then the Senator can properly make his motion to proceed to the consideration of the naval appropriation bill, and that bill will become the unfinished business.

The PRESIDENT. pro tempore. Is there objection to the unanimous-consent agreement proposed by the Senator from Idaho?

Mr. WILLIS. In order that there may be no misunderstanding about the matter, may I say that I understood the Senator from Utah to make the suggestion that the Isle of Pines treaty should be disposed of to-morrow.

Mr. BORAH. That is not incorporated in my unanimous-consent proposal.

Mr. WILLIS. If that were the case I should have to object to it.

Mr. KING. Oh, no; I made no such request.

Mr. WILLIS. Let the unanimous-consent request be stated at the desk.

The PRESIDENT pro tempore. The Senator from Idaho asks unanimous consent that at the close of the morning hour on to-morrow the Senate shall, in open executive session, proceed to the consideration of the Isle of Pines treaty.

Mr. FLETCHER. And that it be now temporarily laid aside.

The PRESIDENT pro tempore. The Chair thinks that is all that is involved in the unanimous-consent agreement.

Mr. FLETCHER. The Senator from Idaho will have to have it laid aside temporarily.

Mr. BORAH. I am going to do that in a moment. I desire to get this matter settled and then I will ask to have the treaty temporarily laid aside.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent agreement proposed by the Senator from Idaho? The Chair hears none, and it is so ordered.

Mr. BORAH. I now ask that the Isle of Pines treaty be temporarily laid aside.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Idaho? The Chair hears none, and the treaty is temporarily laid aside. The Senate is still in open executive session.

Mr. SWANSON. Mr. President, I give notice that at 2 o'clock to-morrow, when the Isle of Pines treaty is again laid before the Senate, I shall address the Senate in behalf of its ratification.

Mr. BORAH. I desire to submit three reports from the Committee on Foreign Relations.

The PRESIDENT pro tempore. Does the Senator from Idaho propose that the Senate shall consider the reports in open executive session?

Mr. BORAH. No; I merely wish to have the reports placed on the Executive Calendar.

The PRESIDENT pro tempore. Without objection the reports will be received and placed on the Executive Calendar.

Mr. CURTIS. I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed its legislative session.

NAVY DEPARTMENT APPROPRIATIONS

Mr. HALE. I move that the Senate proceed to the consideration of the bill (H. R. 10724) making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1926, and for other purposes.

The PRESIDENT pro tempore. The Senator from Maine moves that the Senate proceed to the consideration of the bill making appropriations for the Navy Department.

Mr. KING. May I inquire of the Senator from Maine whether it is his purpose to do more than ask for the formal reading of the bill this afternoon?

Mr. HALE. No; I would like to go ahead with the formal reading of the bill and take up committee amendments after that.

Mr. KING. But at the termination of the formal reading of the bill——

Mr. HALE. Does the Senator from Utah desire to have the bill read, or shall I make the usual request that the formal reading be dispensed with?

Mr. KING. It may be dispensed with, provided that at the termination of it nothing further shall be done, because we will finish that before 5 o'clock, and we should then suspend further consideration of the bill.

Mr. HALE. I agree to take no further action on the bill than that.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Maine that the Senate proceed to the consideration of the Navy Department appropriation bill.

The motion was agreed to.

SAN CARLOS DAM, ARIZONA

Mr. KENDRICK. Mr. President, I send to the desk a telegram which I ask may be read. I wish to say in explanation that the telegram is in the form of a protest against the development of the lower Colorado River until such time as the compact between the seven States that have to do with the division of the water of that river shall have been ratified by the State of Arizona. I ask that the telegram be read.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it will be read.

The principal legislative clerk read as follows:

[Western Union telegram]

CHEYENNE, WYO., *January 10, 1925.*

Hon. JOHN B. KENDRICK,

United States Senate, Washington, D. C.:

Advised appropriation bill carries item for construction on San Carlos Dam on Gila River in Arizona, a tributary of the Colorado. Wyoming has consistently opposed construction of dams in other States of this

watershed until Colorado River compact has been ratified. May I ask your serious consideration of this situation before approving the construction of this dam, which will give priority to appropriation of water to Arizona, the only State which has failed to ratify the compact.

NELLIE T. ROSS, *Governor.*

The PRESIDENT pro tempore. The telegram will be referred to the Committee on Irrigation and Reclamation.

Mr. SMOOT. I would like to say to the Senator from Wyoming that the item is not in conference. I received a similar telegram from a number of other parties; and I make this statement so that the Senator may answer the governor. The item has passed the House and passed the Senate, and it is not in conference at this time. I fully agree with the contents of the telegram. I think before another appropriation is made for that purpose there ought to be some understanding as to the distribution of the waters of the Colorado River.

Mr. WARREN. I had already telegraphed the governor yesterday or the day before as to the fact that legislation has already been enacted for the building of the dam. It can only be corrected by future legislation.

Mr. KING. May I ask the Senator whether it is possible to recall the bill? Has it progressed so far that it is now a law?

Mr. WARREN. I believe that would be impossible. It is something that will come up in the regular way through the Indian Bureau. The matter is in conference now. It would be very unusual to undertake to take a bill out of conference and return it to the House and Senate and get their action. The matter can be repealed in some future appropriation bill if it becomes necessary.

Mr. KING. If the Senator desired to do so, he could offer a joint resolution amending the matter, and if it passed the Senate and the House agreed to the resolution and the President approved it, it would supersede the bill even if the President had already signed it.

NAVY DEPARTMENT APPROPRIATIONS

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 10724) making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1926, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. HALE. Mr. President, I ask unanimous consent that the formal reading of the bill may be dispensed with and that the bill may be read for amendment, the amendments of the committee to be first considered.

Mr. KING. That is in accordance with the understanding I just had with the Senator?

Mr. HALE. Yes.

Mr. KING. If any committee amendment should lead to prolonged discussion, I presume it might be passed over, as is usually done?

Mr. HALE. Oh, yes. The regular method of procedure will be followed.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Maine? The Chair hears none, and it is so ordered.

EXECUTIVE SESSION

Mr. CURTIS. Mr. President, I understand there is an agreement that we shall do nothing further with the bill to-night, and in view of that understanding I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 4 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 15, 1925, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 14 (legislative day of January 5), 1925

POSTMASTERS

GEORGIA

Minnie E. Nance, Arlington.
Annie H. Thomas, Dawson.
Henry W. Harvey, Rockingham.
Albert Lunceford, Union Point.
Edgar S. Hicks, Yatesville.

IOWA

Lester F. Friar, Grimes.
George M. Woodruff, Mason City.
Ithamer J. Baldwin, Oelwein.
Claus F. Jacobsen, Wilton Junction.

KANSAS

Robert B. Slavens, Lecompton.

MICHIGAN

Edgar Rashleigh, Houghton.

MINNESOTA

Arthur M. Enger, Lanesboro.
Oswald H. Jacobson, Rothsay.

NEVADA

Edith Lemaire, Battle Mountain.
James W. Johnson, Fallon.
Arthur H. Keenan, Tonopah.
Katie O'Connor, Virginia City.
William H. Ayers, Winnemucca.

PENNSYLVANIA

Grace Baker, Claysburg.

SOUTH DAKOTA

Ambrose B. Blake, Huron.

HOUSE OF REPRESENTATIVES

WEDNESDAY, *January 14, 1925*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, Thy fatherhood is the overarching and the undergirding reality of all our fondest hopes. Through mercy divine we are still treading our way through the wondering paths of Thy providence. O hear us as we breathe our prayer. Have mercy upon us; pity us in our weakness; restrain us in our tendencies; be at our side when the way is unsafe. Help us to forget and forgive the wrongs that may have been imposed upon us. Make our hearts the home of charity, which is the livery of heaven. Out of to-day's experiences may there come to us new vision, greater outlook, broader understanding, and higher joys. Bless us all with a deeper unfolding of things divine. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, one of its clerks, announced that the Senate had passed with amendments the bill (H. R. 11308) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1925, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal year ending June 30, 1925, and for other purposes, in which the concurrence of the House of Representatives was requested.

The message also announced that the Senate had passed the following concurrent resolution in which the concurrence of the House of Representatives was requested:

Senate Concurrent Resolution 25

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 11th day of February, 1925, at 1 o'clock postmeridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President pro tempore of the Senate shall be their presiding officer; that two tellers shall be previously appointed by the President pro tempore on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed as they are opened by the President of the Senate all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

URGENT DEFICIENCY APPROPRIATIONS

Mr. MADDEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the deficiency appropriation bill

just reported over from the Senate, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from Illinois asks unanimous consent to take from the Speaker's table, disagree to the Senate amendments, and ask for a conference, the bill of which the Clerk will read the title.

The Clerk read as follows:

A bill (H. R. 11308) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1925, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal year ending June 30, 1925, and for other purposes.

The SPEAKER. Is there objection?

Mr. GARNER of Texas. Reserving the right to object, I want to ask the gentleman in reference to an amendment proposed by the Senator from Utah [Mr. KING] referring to the publicity of the names of parties to whom the refund of taxes is to be made—whether the conferees feel kindly toward that amendment, and whether they will give the House an opportunity to vote on it.

Mr. MADDEN. The law now requires it.

Mr. GARNER of Texas. But there could be no objection to putting it in the bill.

Mr. MADDEN. If it is merely a duplication——

Mr. GARNER of Texas. I note that the Senator from Wyoming [Mr. WARREN] in charge of the bill, was antagonistic to that amendment. If the House takes the same view of it, it would be easy to disagree to the Senate amendment——

Mr. MADDEN. It will come to the House, I do not mean to be arbitrary about it.

Mr. GARNER of Texas. The point is, I would like to have the House have a chance to vote on that direct amendment as the Senate did. If you agree to the Senate amendment there will be no occasion to; but if the gentleman will give us the opportunity, I would be glad to have it go to conference.

Mr. MADDEN. If it is simply a duplication of the law the gentleman would not want it in.

Mr. GARNER of Texas. I can not see that there could be any harm in it.

Mr. MADDEN. I want to say that the law requires the publication and report to the House of all names, and they are reported and are at the disposal of everybody. I think a number of names were before the Senate, put into the RECORD during the consideration of this bill.

Mr. GARNER of Texas. The gentleman put in the bill these words:

Provided, That a report shall be made to Congress of the disbursements hereunder as required by such act.

And the Senator from Utah [Mr. KING] merely added—

including the names of all persons and corporations to whom payments are made, together with the amounts paid to each.

Mr. MADDEN. I will say that I do not see any objection to it, and we will come to the House and give the House an opportunity to vote on it if we do not agree to it.

Mr. BANKHEAD. Mr. Speaker, further reserving the right to object, will the gentleman tell us what substantial additions are made by way of increase to the bill?

Mr. MADDEN. Three million dollars all together, but they are mostly certified judgments that ought to be paid and we would have put them in if they had been ready at the time.

Mr. BANKHEAD. Does it provide for the expenses of the Agricultural Commission?

Mr. MADDEN. It does.

Mr. BANKHEAD. The gentleman will remember that there was considerable opposition to that in the House.

Mr. MADDEN. That will have to come back to the House anyway for a vote, because there is no authorization under the law.

Mr. BLANTON. Will the gentleman yield? That is the item I wanted to ask the gentleman about. The gentleman will remember that the distinguished gentleman from Louisiana [Mr. ASWELL] and the gentleman from Kentucky [Mr. KINCHELOE] both members of the Agricultural Committee, denounced the item as a waste of money, and it was also denounced as a waste of money by the minority leader [Mr. GARRETT of Tennessee]. The gentleman will give us a chance to be heard on that?

Mr. MADDEN. Certainly, you have a right to be heard on it.

The SPEAKER. Is there objection?

There was no objection.

The Chair appointed as conferees on the part of the House Mr. MADDEN, Mr. ANTHONY, and Mr. BYRNS of Tennessee.

ENROLLED BILLS SIGNED

Mr. ROSENBLOOM, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 10144. An act to amend an act entitled "An act to fix the salaries of officers and members of the Metropolitan police force, the United States park police force, and the fire department of the District of Columbia," approved May 27, 1924;

S. 1782. An act to provide for the widening of Nichols Avenue between Good Hope Road and S Street SE.; and

S. 3053. An act to quiet title to original lot 4, square 116, in the city of Washington, D. C.

SENATE CONCURRENT RESOLUTION REFERRED

Under clause 2, Rule XXIV, the following concurrent resolution was taken from the Speaker's table and referred to the Committee on the Election of President, Vice President, and Representatives in Congress:

Senate Concurrent Resolution 25

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 11th day of February, 1925, at 1 o'clock postmeridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President pro tempore of the Senate shall be their presiding officer; that two tellers shall be previously appointed by the President pro tempore on the part of the Senate, and two by the Speaker on the part of the House of Representatives, to whom shall be handed as they are opened by the President of the Senate all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the State, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

CONSOLIDATION OF NATIONAL BANKING ASSOCIATIONS

Mr. McFADDEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 8887) to amend an act entitled "An act to provide for the consolidation of national banking associations," approved November 7, 1918; to amend section 5136 as amended, section 5137, section 5138 as amended, section 5142, section 5150, section 5155, section 5190, section 5200 as amended, section 5202 as amended, section 5208 as amended, section 5211 as amended, of the Revised Statutes of the United States; and to amend section 9, section 13, section 22, and section 24 of the Federal reserve act, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 8887, with Mr. LEHLBACH in the chair.

The Clerk reported the title of the bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 9. That the first paragraph of section 9 of the Federal reserve act be amended by adding at the end thereof two provisions and a new paragraph to read as follows:

"*Provided*, That on and after the approval of this act the board shall not permit any such applying bank to become a stockholder of such Federal reserve bank except upon condition that such applying bank relinquish any branches which it may have in operation beyond the corporate limits of the municipality in which the parent bank is located: *Provided further*, That no member bank shall, after the approval of this act, be permitted to establish a branch beyond the corporate limits of the municipality in which such bank is located, and it shall be unlawful for any such member bank to maintain in operation more than one such branch within the corporate limits of such a municipality where the population by the last decennial census is not less than 25,000 and not more than 50,000, and more than two such branches where such population is not less than 50,000 and not more than 100,000.

"The term 'branch or branches' as used in this section shall be held to include any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State or Terri-

tory of the United States or in the District of Columbia at which deposits are received or checks cashed or money loaned, but shall not include any branch established in a foreign country or dependency or insular possession of the United States."

Mr. MORTON D. HULL. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. MORTON D. HULL: Page 11, line 13, after the word "located," strike out the colon, insert a comma, and the following: "and it shall be unlawful for any such applying bank in any State which does not by law or regulation at the time of the approval of this act permit State banks or trust companies created by or existing under the laws of such States to have branches within the limits of municipalities in such States to become such a stockholder of such Federal reserve bank, except upon condition that such applying bank relinquish any branches which it may have established subsequent to the approval of this act."

Also on page 11, line 23, after the word "thousand," strike out the period, insert a colon, and add the following: "*And provided further*, That it shall be unlawful for any such member bank to establish a branch within the limits of the municipality where such bank is located in any State which does not by law or regulation, at the time of the approval of this act, permit State banks or trust companies, created by or existing under the laws of such States, that have branches within the limits of such municipalities in such States."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken.

Mr. LUCE rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. LUCE. I rise to oppose the amendment.

The CHAIRMAN. The Chair will recognize the gentleman from Massachusetts.

Mr. CHINDBLOM. Mr. Chairman, a parliamentary inquiry. There was a vote, was there not?

The CHAIRMAN. The vote had not been announced, and the Chair was not aware that the gentleman from Massachusetts was seeking recognition.

Mr. MORTON D. HULL. Mr. Chairman, I desire to be heard, although I am quite willing to be heard after the gentleman from Massachusetts.

Mr. LUCE. I think the proponent of the amendment has the right of way, and I shall gladly give way in favor of him.

The CHAIRMAN. The gentleman from Massachusetts is recognized.

Mr. LUCE. This is the most serious of the amendments presented by the gentleman from Illinois. The others have not particularly disturbed me, but this one has in it elements of damage to the Federal reserve system that ought to receive the attention and consideration of the House. It should be pointed out that for some time now the inability to develop the reserve system by securing the admission of many banks not now within its limits has not only agitated the banking world but also has so impressed itself upon this body that your Committee on Banking and Currency has been giving it very thorough consideration. Indeed, the matter seemed of such great importance two years ago that a subcommittee was authorized to make a tour of the country and to find out, if possible, why more banks were not coming into the Federal reserve system and why many were going out. The problem proved of such magnitude and of such difficulty that this subcommittee has not yet been able to report. It apparently is greatly perplexed by the conditions it discovered. Therefore, we remain in the dark as to the particulars in regard to which we may be asked to legislate in order to meet this impending disaster, and I think it may be fairly called such if the situation should result in the breakdown of this Federal reserve system, which proved of such vital importance to the Nation in the time of great stress and which has accomplished already so much benefit.

This particular amendment in its practical effect would put still more difficulties in the way of attracting into the system those banks now reluctant to enter. Because that makes a bad matter worse, I am anxious the House shall know at least what would be the result, so that it may determine whether this is a prudent step to take.

I have thought that the other amendments the gentleman has proposed accomplished his purpose sufficiently. I am of the hope—I recognize it is a tenuous and shadowy hope—that he will not press upon us the proposal that we still further detract from the influence and possible achievements of the Federal reserve system by in this way preventing in practical effect the entrance into it of those banks which under the laws of sundry States have the power to maintain branches and in many cases do maintain branches. I shall be very glad to have the gentleman give the House some reason why we should take this menacing step.

Mr. MORTON D. HULL. Mr. Chairman, we have adopted amendments to the bill providing that in States which do not now permit branch banking national banks shall not hereafter be permitted to do branch banking. This particular amendment applies to those particular States which do not now permit branch banking on the part of State banks, and it provides, in effect, that if any of those States shall hereafter change their State laws and permit branch banking State banks, whether members of the Federal reserve system or seeking to become members of the Federal reserve system, shall not be permitted to remain in or go into the Federal reserve system if they take advantage of any law hereafter passed permitting branch banking in their own State. It is obviously unfair to national banks which are members of the Federal reserve system in any such State if we leave the situation so that the State banks in that State will be interested in having legislation of their own permitting State banks to do a branch-banking business and to have an advantage over national banks in that particular.

And it is my expectation that if this amendment is adopted the point of view of the State banks which are members of the Federal reserve system in any such State would be biased against any legislation in their own State permitting branch banking; that they would be so biased that, as they value their membership in the Federal reserve system, so much would they constitute an influence in their own State against any legislation permitting branch banking through their own State banks. By their influence, together with that of the national banks in such States, we may hope and expect to retard any State legislation and perhaps prevent any further State legislation extending branch banking in States not now permitting branch banking.

Mr. JACOBSTEIN. If the gentleman will permit a question, do I understand if in the future a State does change its laws for whatever reason and permits branch banking, which State does not now permit branch banking, the national banks will not be permitted to do branch banking?

Mr. MORTON D. HULL. By my amendments adopted yesterday they will be barred in those States from doing branch banking.

Mr. JACOBSTEIN. What would be the gentleman's attitude in the next Congress if a State should permit branch banking if their national banks came and said they wanted to be put on a parity with the State banks?

Mr. MORTON D. HULL. In that event I would be inclined to give them the right to do it, because I think they ought to be put on a parity with the State banks.

Mr. JACOBSTEIN. My question is simply by way of information; I am not opposed to this project at all, but if the gentleman is going to be in favor of giving the national banks that right two years from to-day it would seem logical that it should be made possible for them to do it.

Mr. MORTON D. HULL. Because I am interested in preventing as far as possible legislation on the part of those States, and I hope by this amendment to create an influence in those States against the extension of branch banking, and because I believe further if those amendments which were adopted yesterday were not in the bill the existing national banks would be in favor of branch banking in those States, and you would see an acceleration of branch bank legislation in States not now permitting it, I have been prompted to my course.

Mr. JACOBSTEIN. I understand the purpose of the gentleman's amendment is merely to diminish the incentive on the part of the banks within a State to change the law of that State and permit branch banking?

Mr. MORTON D. HULL. That would be one object I expect would be worked out. I do not want those State banks in those States to have an advantage over the national banks in those States.

Mr. RUBEY. Were those amendments indorsed by the National Bankers' Association?

Mr. MORTON D. HULL. I understand this whole subject matter was taken up there, that this was part of the general understanding which was had at that time at the association meeting. I was not there. These amendments were prepared long prior to the Bankers' Association meeting, as far as I am concerned, but I believe they were included in the understanding at that meeting.

Mr. WINGO. Will the gentleman yield?

Mr. MORTON D. HULL. I will.

Mr. WINGO. May I make this suggestion in response to the suggestion of the gentleman from New York, that the major consideration that moved the committee to agree to the gentleman's amendments and I understand that the major consideration that influenced the Bankers' Association was that there are some of us who are opposed to the extension of branch banking even as authorized by this bill. That those of you who are in favor of authorizing branches where States now authorize it have before you a picture of the evil and know the extent of it. And if you leave it open so that legislature after legislature might amend their laws where they do not now authorize branch banking it might go on to an extent that would be very great, even beyond what gentlemen who are in favor of this bill would be willing to go. So the gentleman says that he is willing to take steps now in reference to State laws that will meet that competition in authorizing national banks that now have that right under existing law, but the gentleman is not willing to leave it open so that future legislatures may go further than any of you gentlemen are willing to go, and this will peg this thing right now. For this reason those opposed to the bill and those in favor of the bill can agree, and the gentleman desires to peg the evils to the certain limit which now exists.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MORTON D. HULL. I ask for two additional minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. MORTON D. HULL. I want to answer the statement made by the gentleman from Arkansas, because it was made in the nature of a question. I am in favor of pegging the situation as it is now as far as we can, and I believe the Congress should reserve for itself the right to determine how much further it may wish to go in the future instead of leaving that discretion open to the States.

Mr. CELLER. Mr. Chairman, will the gentleman yield for a question, merely for information?

Mr. MORTON D. HULL. Yes.

Mr. CELLER. Have you examined into that case that was decided in St. Louis, where a national bank, having opened a branch, was prohibited by the Supreme Court from doing so, the court being more or less divided?

Mr. MORTON D. HULL. Yes.

Mr. CELLER. Do I understand from that decision that the only prohibition against national banks opening branches under the existing law is the fact that if there is a State law prohibiting branch banking, then a national bank located in that State shall not open branches, that decision did not go to the extent of saying that national branch banks shall not obtain in States which allow branch banking? Is that the gentleman's understanding?

Mr. MORTON D. HULL. I have read that case, but I would not want to answer the gentleman's question with any certainty that I have the answer to it. My recollection is that that was a quo warranto proceeding against the national bank of St. Louis. They decided that it was opposed to the Missouri State law, and inasmuch as there was nothing in the Federal law which made it a part of the national bank system, Missouri State law would govern.

Mr. CELLER. In other words, the case hung on the Missouri State law largely?

They have a situation in Minneapolis, I believe—I do not recall the name of the bank—where two national banks with branches merged. They had acquired branches before merger and they were permitted to retain them after the merger. Then the State law was changed in Minnesota, so that branch banking was prohibited. This State prohibition against branches gave an undue advantage to these merged national banks over the State banks. These merged banks, I understand, probably as a result of the St. Louis decision, have agreed to unscramble their branches by the formation of separate corporations.

Mr. MORTON D. HULL. I regret I am not sufficiently acquainted with that situation to answer your question.

The CHAIRMAN. The gentleman from Maine [Mr. BEEDY] is recognized.

Mr. BEEDY. Mr. Chairman and gentlemen of the committee, in my opposition to a similar amendment, adopted yesterday, I attempted to explain my position as best I might in five minutes. It seems to me idle to speculate upon the probabilities or possibilities of what may eventuate in the various States not now permitting branch banking if this amendment should be adopted. We have an accurate guide to-day. We have seen what is happening in States where branch banking is permitted. We have observed the effect upon the national banking system of State branch banking. The tendency under such conditions is to undermine and wipe out the national bank system, and it is that system which we are attempting to save.

The Federal Congress can not muzzle the legislatures in the various States. They have their right to speak, and they are going to exercise that right in accordance with their views upon this branch-banking problem. I think the gentleman from Illinois [Mr. MORTON D. HULL] flatters the national banking system in those States that have not yet spoken on branch banking by assuming that they will in any appreciable degree control the action of the legislatures in the various States.

Mr. HILL of Maryland. Mr. Chairman, will the gentleman yield there?

Mr. BEEDY. Yes.

Mr. HILL of Maryland. As a matter of fact the State banking institutions usually have more influence with the State legislatures than do the national banks?

Mr. BEEDY. Exactly so; and from what the gentleman from Illinois [Mr. MORTON D. HULL] has said as to the probable exigencies if this bill be passed and this amendment adopted he forgets, it seems to me, the status in which the national banks will be left, namely, the precise status in which we now find them.

I called to the attention of the House, just prior to adjournment yesterday, the number of national banks, totaling 521, which since 1918 had surrendered their charters and taken out State charters; and the gentleman from Texas [Mr. JOHNSON] who then had the floor and who, in my opinion, made a very able speech, and was most kind in extending to me the courtesies of debate, suggested that he had no statistics as to the State banks surrendering their charters and taking out national charters. That matter had not been stressed before our committee, and I was not then advised as to the situation. I then asked for information. It has not been given in the House. I find as a matter of fact—and I hope the gentleman from Texas will give me his attention, because his State is concerned in this—I found subsequent to the adjournment of the House that 487 State banks since 1918 had surrendered their State charters and taken out national charters.

My first thought was that that must have been prompted by purely local conditions, and before investigating I would have ventured the assertion that the great majority of those changes had occurred in States not permitting branch banking. Such appears to be the fact.

There are, however, some changes in States which permit branch banking. I beg to call the attention of Members of the House to this situation: Since 1918, 87 State banks in Oklahoma have surrendered their State charters and have taken out national charters; 18 banks in the State of Washington, 28 in the State of Texas, and 9 in the State of Kansas have taken the same action. Yet, if we look beneath the surface, we find that there is a perfectly logical reason for these exchanges of charters. These States have in force laws guaranteeing deposits, and to escape the hardships which some State banks felt were imposed upon them by such laws some State banks have converted their State charters into national charters. I find also that even in the State of California, where branch banking was permitted prior to 1920, 21 State banks had changed to national banks. But I find that the majority of those changed charters were in localities where there was no branch banking competition by State banks. A few State banks in New York have taken out national charters. These banks were in most cases where they had no competition by State branch banks.

The position of the committee, therefore, is perfectly logical and tenable. We again say that the object of this proposition is to save the national banking system. It is a system without which we could not well have financed the Civil War. I oppose this Hull amendment as illogical and inconsistent with the whole purpose and intent of this bill, and I deplore the fact that we are asked to depart from principle and resort to expediency simply to pass this bill which uncontaminated by this amendment would justify itself on its merits. [Applause.]

Mr. McFADDEN. I ask unanimous consent, Mr. Chairman, to proceed for five minutes for the purpose of clarifying this proposition so that the Members of the House will understand.

The Hull amendments, as a whole, do this: Under the bill we are giving national banks the right, in those States which now permit branch banking, to compete within city limits; that is, they can have branches the same as State banks within city limits. Under the Hull amendments, in those States which now do not permit branch banking, we are saying to national banks, "Before you can establish branches within cities you must come back to Congress and get authority to establish

branches," instead of, as the bill would provide without the Hull amendments, automatically giving them that right. That is the boiled-down gist of the proposition.

Mr. LUCE. Will the gentleman yield?

Mr. McFADDEN. I will.

Mr. LUCE. Will the chairman explain why, in view of the passage of the other amendments, there is now any advantage to be gained in preventing admission to the Federal reserve system on the part of banks with branches and the consequent exclusion from the system of those banks which otherwise might desire to join it?

Mr. McFADDEN. When I speak of national banks that would apply in the same way to member banks of the Federal reserve system.

Mr. LUCE. Does not the gentleman think this is an additional obstacle in the way of the growth of the Federal reserve system?

Mr. McFADDEN. Well, it prevents the establishment of branches in those States which now prohibit it by law and destroys a possible cooperation which might be used in the legislatures to insure the passage of legislation permitting branch banking.

Mr. LUCE. I grant that to the gentleman, but why do you now endanger the Federal reserve system by such an amendment as this?

Mr. McFADDEN. We are not. It would not be fair to permit national banks to have the right to establish those branches and not give the right to State banks and trust companies in States where they change the laws.

Mr. HILL of Maryland. Will the gentleman yield?

Mr. McFADDEN. Yes.

Mr. HILL of Maryland. In connection with the gentleman's explanation of the pending Hull amendment and the whole purpose of the group of Hull amendments, as I understand it, it is the intention of these amendments to prevent the creation of national bank branches in States which do not permit State bank branches. That is true, is it not?

Mr. McFADDEN. It would also prohibit those State banks which are members of the reserve system from having branches within cities.

Mr. HILL of Maryland. But does it not also prohibit national banks in those States from establishing branch banks if those States in the future permit State banks to have branch banks?

Mr. McFADDEN. That is exactly what it does. As I have said, without the Hull amendments they would have that right automatically, but if any State in the future should give the State banks the right to have branches within city limits then it would require national legislation before a national bank could have that right.

Mr. HILL of Maryland. Will this be the situation: This bill will take care of the present competition between State banks and national banks, but if five States within the next year create State branch banking, national banks in those States will be in precisely the same position as are the national banks at the present time, and for which this legislation is intended?

Mr. McFADDEN. The gentleman is entirely correct.

Mr. HILL of Maryland. Just one more question: Then the whole problem would have to be worked over again, and should we not at the present time take care of that situation? I may say that the State of Maryland permits branch banking, so that it is not a vital question to my constituents; but I think, inasmuch as we have a bill which is a permanent policy and not merely a temporary expedient, we should take care of the situation in those States which may pass legislation permitting branch banking.

Mr. MORTON D. HULL. May I answer the gentleman's question?

Mr. HILL of Maryland. Certainly.

Mr. MORTON D. HULL. You can make absurd the commonest precept of common sense by a hypothetical case, but let us look at the proposition in the light of probability and in the light of the ordinary motives of human action. If you have made it impossible for national banks in those States to have branch banks without a change in the law, and if you have made it impossible for State banks which are members of the Federal reserve system to have branch banks and maintain their membership, the probabilities are that your hypothetical question is wasted, and that there would not be any changes in the law.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. HILL of Maryland. Mr. Chairman, I ask that the gentleman have two more minutes, so that I may ask him some additional questions.

The CHAIRMAN. The gentleman may ask for recognition.

Mr. HILL of Maryland. Then, Mr. Chairman, I ask for recognition.

The CHAIRMAN. The gentleman from Maryland is recognized.

Mr. HILL of Maryland. The gentleman has suggested that anything may be made absurd by hypothetical questions and cases. I am not in any possible way attempting to create any absurd situation, and if I have, it is because of my ignorance of the meaning of the proposed amendment and I am seeking light on the amendment. I have not made up my mind how I shall vote on this Hull amendment. I voted against one of the same type yesterday because I thought I understood it. So I should like to put this question to the gentleman in order that I may clearly understand the proposition now before us.

As I understand, if this legislation goes through, States which do not now permit branch banking may at their next legislature permit branch banking, but that then national banks in that State can not have branches and will be subject to the competition of State banks with added branches. Now, as I understand it, the purpose of this present legislation is to remedy that situation in States where there are State branch-banking institutions in existence. I would like to ask if that is the case?

Mr. MORTON D. HULL. That is the same hypothetical question and naturally will have to have the same answer.

Mr. HILL of Maryland. What is the answer?

Mr. MORTON D. HULL. The answer is that you will have to come back to Congress and reconsider the case in the light of that action.

Mr. HILL of Maryland. That is just what I thought it did. That is what I wanted to get. In other words, it will be necessary to have another act of Congress to take care of the situation in any State which, after the passage of this act, permits by new legislation State branch-banking competition with national banks.

Mr. BEEDY. Will the gentleman from Maryland yield for a question?

Mr. HILL of Maryland. I yield to the gentleman.

Mr. BEEDY. It is known to the gentleman from Maryland that the majority of State banks are now outside the Federal reserve system, is it not?

Mr. HILL of Maryland. Absolutely; and this will act as a deterrent to their joining the Federal reserve system.

Mr. BEEDY. And doubtless the State legislatures would be willing in their future legislation to meet the demands of the majority of their State banking institutions if they touch the banking situation at all.

Mr. HILL of Maryland. I think the gentleman has very clearly stated that point. I yield back the balance of my time.

Mr. WILLIAMS of Michigan. Mr. Chairman, I have regretted very much the adoption of any of these Hull amendments, and I feel that the adoption of this one in particular would be harmful to the general banking situation so far as it affects the Federal reserve system.

The gentleman from Illinois [Mr. HULL] advocates this present proposal because he wants to cut off the influence of national banks in attempting to secure the privilege of branch banking in certain States in which that is not now permitted; but is it not true, in view of the fact that there are at least two and a half times as many State banking institutions in this country as there are national banks, the influence of the State banks upon the various legislatures would greatly exceed that of the national banks, and under this amendment the selfish interests of the State banks will be aroused in going to the legislature and telling the legislature, "If you will give us the privilege of branch banking in this State we will have an advantage over the national banking system and will profit thereby."

Furthermore, under the theory of this bill, the present protection of national banks in having so-called teller windows is entirely cut off, and the national banks under that kind of a situation would be at the mercy of the State banks so far as competition is concerned.

Mr. Chairman, I am not fully in approval of section 9 even as it stands in the bill. I have great apprehension as to what the effect of section 9 in this bill will be with regard to the Federal reserve system, and I wish the Members on this floor would again read the wording of section 9, and in that connection keep in mind that under the Federal reserve act, as it stands to-day, by amendment that was put into the statute

to meet the situation and to invite State banks to come into the Federal reserve system, we find this language:

Subject to the provisions of this act and to the regulations of the board made pursuant thereto, any bank becoming a member of the Federal reserve system shall retain its full charter and statutory rights as a State bank or trust company, and may continue to exercise all corporate powers granted it by the State in which it was created, and shall be entitled to all privileges of member banks.

It was upon the basis of that assurance and the additional assurance contained in correspondence with many of these large branch-banking systems that they have come into the Federal reserve system, and now under the wording of section 9 of this bill we take away the right extended to State institutions and change the entire policy of the law in that regard.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. BEEDY. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended one moment in order that I may ask a question for the information of the House.

The CHAIRMAN. The gentleman from Maine asks unanimous consent that the time of the gentleman from Michigan be extended one minute. Is there objection?

There was no objection.

Mr. BEEDY. Has the gentleman been able to ascertain or has the gentleman heard any reason advanced why people interested in these Hull amendments did not present them to the committee and give us a chance to consider them?

Mr. WILLIAMS of Michigan. I have not.

Mr. MORTON D. HULL. I will answer that question because it is really directed to me. They were afterthoughts.

Mr. BEEDY. Afterthoughts?

Mr. MORTON D. HULL. Yes.

Mr. BEEDY. And we had been considering this bill for two years?

Mr. MORTON D. HULL. I have not been considering this bill for two years. This bill did not come out until last April.

Mr. WINGO. Mr. Chairman, I move to strike out the last word. I would not take the time of the committee on this amendment were it not for the statement so ably and forcibly made by my colleague, the gentleman from Illinois, who has just addressed the committee. I have great respect for the gentleman's judgment. He is one of the ablest Members of the House. The gentleman has shown by his industry and his capacity that he is one of the ablest members of our committee.

Mr. WILLIAMS of Michigan. I would like to ask the gentleman a question. The gentleman spoke about the gentleman from Illinois. Is the gentleman referring to Mr. HULL?

Mr. WINGO. I mean the gentleman from Michigan [Mr. WILLIAMS], but what I say will equally apply to my friend, the gentleman from Illinois [Mr. MORTON D. HULL]. It is the argument of the gentleman from Michigan that I want to meet.

I think the gentleman has fallen into an error and his conclusion is erroneous. The gentleman reads the guaranty that is in section 9 of the original Federal reserve act and which is now the law and leaves the implication that the Hull amendment impairs the value of that provision.

Mr. WILLIAMS of Michigan. Will the gentleman yield?

Mr. WINGO. I yield.

Mr. WILLIAMS of Michigan. I was addressing my remarks not only to the Hull amendment, but also to the wording of section 9 as it stands in the bill.

Mr. WINGO. That is true, and the gentleman's conclusion is erroneous in both instances.

This is no new question. The Banking and Currency Committee of the House in August, 1913, spent two days on this question, and the gentleman will find that the controversy was finally settled in a very wise way, I think.

If the gentleman will turn to the original act which is now the law, the gentleman will find that this is the plan that the committee finally agreed on with reference to State banks, which they embodied in the original act.

That it is beyond the power of Congress to impair the charter of the State banks, and being beyond the power of Congress to impair that, it is beyond the power of Congress to authorize the Federal Reserve Board to impair the charter rights. So when you admit the State banks to the Federal reserve system, unless you exact from it before it comes in as a condition precedent to its admission a waiver of specific rights, you could not control it after it is once in the system.

What do we do? In the very first part of the section 9, if you will turn to it—I will not undertake to quote the exact language—we provide for the admission of State banks, not as a matter of right, not as a matter of open, unrestricted privilege, although we provide that they can come in, that their admission is subject to the rules and regulations to be provided by the Federal Reserve Board. I was one of the first to argue that I did not want a board to pass on any of these things; I wanted Congress to lay down restrictions and rules. I was met by this argument and it convinced me: You do not do that to an applicant for a charter for a national bank; you set down the limits as to capital amount; but we now leave the Comptroller of the Currency the right to go into each individual application, and we only have general rules and regulations to inquire into the surroundings of each individual applicant for a national-bank charter. Then it was urged—and I think the logic was unanswerable—that as far as we ought to go is to say that the capital amount of a State bank applying for membership shall be equal to the capital requirements for a national bank. This is the main statutory regulation of the law safeguarding against the evil of State banks, because the evils of State banks are not uniform throughout the Nation. There are evils in one State that do not exist in another. There are peculiar conditions existing in every community and city that affect the soundness of that bank.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. WINGO. I ask for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. WINGO. So it was argued that you have to leave something to the Federal Reserve Board to protect the system against the unsound State institutions coming in, that we might have the requisite capital stock, and so we provided in the first part as a condition precedent that the board could make such rules and regulations as it saw fit, and in the last—and it was said that it would be in the law anyway—I said I wanted it to appear affirmatively—that after they once got in the Federal Reserve Board shall have no right to impair the charters of the State institutions.

Now, do we change it by the proposed amendment? I will now yield to the gentleman from Michigan.

Mr. WILLIAMS of Michigan. My position is that we do violate the terms and spirit of that part of the Federal reserve act I read by the provisions in this bill which limits the rights of member State banks to establish any additional branches outside the city in which they are located, and by not permitting State banks to come into the system without waiving and giving up their rights.

Mr. WINGO. I will answer the gentleman's last statement first. We do not deny the spirit of the Federal reserve act by denying membership to State banks in the future unless they will surrender their branches outside of the city. We want the State banks in to add strength to the system, but we do not want to destroy the soundness of the system by permitting State banks to come in where the standard is below the standard fixed for national banks.

What do we do in this bill? We say to national banks, men who want to put their capital together to get a charter as a national bank and thereby come into the Federal reserve system—we say, whenever you do that you shall not have the right to have a branch outside of the city where you are organized. So we say to the State banks, you are not permitted if in the future you desire to join the system—you must come in on a plain equality with the national banks; you must, as a condition precedent, waive your right to have a branch outside of the city, because we require a new national bank that comes into the system to confine its branches to the city and not enable it to have branches outside. So, instead of discriminating against the State banks, we maintain the equilibrium; we say, so far as these branch offices are concerned, we will give you the same privilege that we accord to national banks.

Mr. BEEDY. Will the gentleman yield?

Mr. WINGO. Yes.

Mr. BEEDY. I did not understand the gentleman from Michigan to make the point of discrimination; I understood his point to be that this section, if adopted, would intrench upon the full charter and statutory rights of the State banks. Now, will the gentleman allow me to ask him a question? Does the gentleman understand that the full statutory and charter rights of State banks to-day, in those States permitting branch banks, allow them to hold and operate branch banks? The answer to that question is clearly an affirmative.

Mr. WINGO. No; it is not.

Mr. BEEDY. Under its charter and statutory rights a State bank to-day in States permitting branch banking has the right to operate and maintain branches, has it not?

Mr. WINGO. No; not where it has as a condition precedent to admission adopted a regulation of the board that prevents it.

Mr. BEEDY. For the moment I am not considering any provisions of the Federal Reserve Board at all.

Mr. WINGO. But the gentleman has to.

Mr. BEEDY. That is the next step.

Mr. WINGO. The gentleman has to.

The CHAIRMAN. The time of the gentleman from Arkansas has again expired. The question is on the amendment offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. MORTON D. HULL) there were—ayes 68, noes 29.

So the amendment was agreed to.

Mr. STEVENSON. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. STEVENSON: Page 11, line 13, after the word "further," strike out the remainder of the paragraph and insert in lieu thereof the following: "That it shall be unlawful for any member bank after the approval of this act to establish a branch beyond the corporate limits of the municipality in which such bank is located, and it shall be unlawful for any such member bank to maintain in operation any branch within the corporate limits of such a municipality where the population of the last decennial census is less than 25,000, and not more than one such branch where such population is not less than 25,000 and not more than 50,000, and not more than two such branches where such population is not less than 50,000 and not more than 100,000, but these restrictions as to numbers shall not be construed to require the relinquishment of any branches acquired prior to the approval of this act: *And provided further*, That the establishment of any branch by a member bank shall not require the approval of the Federal Reserve Board."

Mr. McFADDEN. Mr. Chairman, I accept that amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina.

The amendment was agreed to.

Mr. BLACK of New York. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BLACK of New York: Page 11, line 3, after the word "that," strike out everything down to the word "on," on line 7, page 11, and insert in lieu thereof the following: "Section 9 of the Federal reserve act be amended to read as follows:

"'SEC. 9. Any bank incorporated by special law of any State, or organized under the general laws of any State or of the United States, desiring to become a member of the Federal reserve system, may make application to the Federal Reserve Board for the right to subscribe to the stock of the Federal reserve bank organized within the district in which the applying bank is located. Such application shall be for the same amount of stock that the applying bank would be required to subscribe to as a national bank. The Federal Reserve Board may permit the applying bank to become a stockholder of such Federal reserve bank if it conforms to this act.

"'SECTION I. BANKS ELIGIBLE FOR MEMBERSHIP

"'In order to be eligible for membership in a Federal reserve bank, a State bank or trust company must have been incorporated under a special or general law of the State or district in which it is located.

"'No applying bank can be admitted to membership in a Federal reserve bank unless—

"'(a) It possesses a paid-up, unimpaired capital sufficient to entitle it to become a national banking association in the place where it is situated, under the provisions of the national bank act, or

"'(b) It possesses a paid-up, unimpaired capital of at least 60 per cent of such amount, and, under penalty of loss of membership, complies with the provisions of this act fixing the time within which and the method by which the unimpaired capital of such bank shall be increased out of net income to equal the capital required under (a).

"'In order to become a member of the Federal reserve system, therefore, any State bank or trust company must have a minimum paid-up capital stock at the time it becomes a member, as follows:

If located in a city or town with a population of—	Minimum capital if admitted under clause (a)	Minimum capital if admitted under clause (b)
Not exceeding 3,000 inhabitants	$25,000	$15,000
Exceeding 3,000 but not exceeding 6,000 inhabitants	50,000	30,000
Exceeding 6,000 but not exceeding 50,000 inhabitants	100,000	60,000
Exceeding 50,000 inhabitants	200,000	120,000

"'Any bank admitted to membership under clause (b) must also, as a condition of membership, the violation of which will subject it to expulsion from the Federal reserve system, increase its paid-up and unimpaired capital within five years after the approval of its application by the Federal Reserve Board to the amount required under (a). For the purpose of providing for such increase every such bank shall set aside each year in a fund exclusively applicable to such capital increase not less than 50 per cent of its net earnings for the preceding year prior to the payment of dividends, and if such net earnings exceed 12 per cent of the paid-up capital of such bank, then all net earnings in excess of 6 per cent of the paid-up capital shall be carried to such fund, until such fund is large enough to provide for the necessary increase in capital. Whenever such fund shall be large enough to provide for the necessary increase in capital, or at such other time as the Federal Reserve Board may require, such fund, or as much thereof as may be necessary, shall be converted into capital by a stock dividend or used in any other manner permitted by State law to increase the capital of such bank to the amount required under (a): *Provided, however*, That such bank may be excused in whole or in part from compliance with the terms of this paragraph if it increases its capital through the sale of additional stock: *Provided further*, That nothing herein contained shall be construed as requiring any such bank to violate any provision of State law, and in any case in which the requirements of this paragraph are inconsistent with the requirements of State law the requirements of this paragraph may be waived and the subject covered by a special condition of membership to be prescribed by the Federal Reserve Board.

"'The application for membership shall be on such forms as prescribed by the Federal Reserve Board and shall be subject to such rules and regulations as the board may prescribe within the provisions of the Federal reserve act.

"'In passing upon an application the Federal Reserve Board shall consider—

"'(a) The financial condition of the applying bank or trust company and the general character of its management;

"'(b) Whether the corporate powers exercised by the applying bank or trust company are consistent with the purposes of the Federal reserve act; and

"'(c) Whether the laws of the State or district in which the applying bank or trust company is located contain provisions likely to prevent proper compliance with the provisions of the Federal reserve act and the regulations of the Federal Reserve Board made in conformity therewith.

"'Such bank or trust company shall conduct its business and exercise its powers with due regard to the safety of its customers.

"'Such bank or trust company shall not reduce its capital stock except with the permission of the Federal Reserve Board.

"'Such bank or trust company shall reduce to and maintain within limits prescribed by the laws of the State in which it is located any loan which may be in excess of such limits.

"'Such bank or trust company may accept drafts and bills of exchange drawn upon it of any character permitted by the laws of the State of its incorporation, but the aggregate amount of all acceptances outstanding at any one time shall not exceed the limitations imposed by section 13 of the Federal reserve act; that is, the aggregate amount of acceptances outstanding at any one time which are drawn for the purpose of furnishing dollar exchange in countries specified by the Federal Reserve Board shall not exceed 50 per cent of its capital and surplus, and the aggregate amount of all other acceptances, whether domestic or foreign, outstanding at any one time shall not exceed 50 per cent of its capital and surplus, except that the Federal Reserve Board, upon the application of such bank or trust company, may increase this limit from 50 per cent to 100 per cent of its capital and surplus: *Provided, however*, That in no event shall the aggregate amount of domestic acceptances outstanding at any one time exceed 50 per cent of the capital and surplus of such bank or trust company.

"'The board of directors of said bank or trust company shall adopt a resolution authorizing the interchange of reports and information between the Federal reserve bank of the district in which such bank or trust company is located and the banking authorities of the State in which such bank is located.

"'Whenever the Federal Reserve Board shall permit the applying bank to become a stockholder in the Federal reserve bank of the district its stock subscription shall be payable on call of the Federal Reserve Board, and stock issued to it shall be held subject to the provisions of this act.

"'All banks admitted to membership under authority of this section shall be required to comply with the reserve and capital requirements of this act and to conform to those provisions of law imposed on national banks which prohibit such banks from lending on or purchasing their own stock, which relate to the withdrawal or impairment of their capital stock, and which relates to the payment of unearned dividends. Such banks and the officers, agents, and employees thereof shall also be subject to the provisions of and to the penalties prescribed by section

5209 of the Revised Statutes, and shall be required to make reports of condition and of the payment of dividends to the Federal reserve bank of which they become a member. Not less than three of such reports shall be made annually on call of the Federal reserve bank on dates to be fixed by the Federal Reserve Board. Failure to make such reports within 10 days after the date they are called for shall subject the offending bank to a penalty of $100 a day for each day that it fails to transmit such report, such penalty to be collected by the Federal reserve bank by suit or otherwise.

"'The Federal Reserve Board shall have the right to order a member bank—

"'To discontinue any unlawful or unsafe practices.

"'To make good an impairment of its capital.

"'To make good encroachments upon reserves.

"'To comply fully with any of the applicable provisions of this act.

"'As a condition of membership such banks shall likewise be subject to examinations made by direction of the Federal Reserve Board or of the Federal reserve bank by examiners selected or approved by the Federal Reserve Board.

"'Whenever the directors of the Federal reserve bank shall approve the examinations made by the State authorities, such examinations and the reports thereof may be accepted in lieu of examinations made by examiners selected or approved by the Federal Reserve Board: *Provided, however,* That when it deems it necessary the board may order special examinations by examiners of its own selection and shall in all cases approve the form of the report. The expenses of all examinations, other than those made by State authorities, shall be assessed against and paid by the banks examined.

"'If at any time it shall appear to the Federal Reserve Board that a member bank has failed to comply with the provisions of this section, it shall be within the power of the board after hearing to require such bank to surrender its stock in the Federal reserve bank and to forfeit all rights and privileges of membership. The Federal Reserve Board may restore membership upon due proof of compliance with the conditions imposed by this section.

"'Any State bank or trust company desiring to withdraw from membership in a Federal reserve bank may do so, after six months' written notice shall have been filed with the Federal Reserve Board, upon the surrender and cancellation of all of its holdings of capital stock in the Federal reserve bank: *Provided, however,* That no Federal Reserve bank shall, except under express authority of the Federal Reserve Board, cancel within the same calendar year more than 25 per cent of its capital stock for the purpose of effecting voluntary withdrawals during that year. All such applications shall be dealt with in the order in which they are filed with the board. Whenever a member bank shall surrender its stock holdings in a Federal reserve bank, or shall be ordered to do so by the Federal Reserve Board, under authority of law, all of its rights and privileges as a member bank shall thereupon cease and determine, and after due provision has been made for any indebtedness due or to become due to the Federal reserve bank it shall be entitled to a refund of its cash-paid subscription with interest at the rate of one-half of 1 per cent per month from date of last dividend, if earned, the amount refunded in no event to exceed the book value of the stock at that time, and shall likewise be entitled to repayment of deposits and of any other balance due from the Federal reserve bank.

"'Banks becoming members of the Federal reserve system under authority of this section shall be subject to the provisions of this section and to those of this act which relate specifically to member banks, but shall not be subject to examination under the provisions of the first two paragraphs of section 5240 of the Revised Statutes as amended by section 21 of this act. Subject to the provisions of this act made pursuant thereto, any bank becoming a member of the Federal reserve system shall retain its full charter and statutory rights as a State bank or trust company and may continue to exercise all corporate powers granted it by the State in which it was created and shall be entitled to all privileges of member banks: *Provided, however,* That no Federal reserve bank shall be permitted to discount for any State bank or trust company notes, drafts, or bills of exchange of any one borrower who is liable for borrowed money to such State bank or trust company in an amount greater than that which could be borrowed lawfully from such State bank or trust company were it a national banking association.

"'The Federal reserve bank, as a condition of the discount of notes, drafts, and bills of exchange for such State bank or trust company, shall require a certificate or guaranty to the effect that the borrower is not liable to such bank in excess of the amount provided by this section and will not be permitted to become liable in excess of this amount while such notes, drafts, or bills of exchange are under discount with the Federal reserve bank.

"'It shall be unlawful for any officer, clerk, or agent of any bank admitted to membership under authority of this section to certify any check drawn upon such bank unless the person or company drawing the check has on deposit therewith at the time such check is certified an amount of money equal to the amount specified in such check. Any check so certified by duly authorized officers shall be a good and valid obligation against such bank, but the act of any such officer, clerk, or agent in violaiton of this section may subject such bank to a forfeiture of its membership in the Federal reserve system upon hearing by the Federal Reserve Board.'"

Mr. LUCE. Mr. Chairman, I make the point of order against the amendment upon the ground that it is not germane.

The CHAIRMAN. The gentleman from Massachusetts makes the point of order against the amendment that it is not germane. Does the gentleman from New York desire to be heard upon the point of order?

Mr. BLACK of New York. Mr. Chairman, the amendment that I have just offered proposes certain limitations and qualifications to section 9 of the Federal reserve act. Already to-day we have adopted to the amendments proposed by the chairman of the committee three further qualifications to section 9 of the Federal reserve act. The bill itself proposes two qualifications to section 9. I am proposing additional qualifications, and on that ground alone I think that the amendment is germane. I have accepted for the purpose of this amendment all the language now in the bill plus the amendments offered to-day, so that I might come within the ruling of the chairman yesterday on the Celler amendment, on the ground that these I offer are additional limitations to those proposed by the bill and accepted to-day by the committee. I also think that it is germane because this bill generally and vitally affects the entire Federal reserve act, and that being so, I think the entire Federal reserve act is thrown open to amendment at this time. I am not trying to do that. I am trying to amend just one section of the act, although the bill itself goes to the very limit in amendments to the Federal reserve act, to the extent of transforming the entire original purpose of the act.

Furthermore, I think it is germane on the logic of the situation. According to statements made on the floor of this House by those who offer this bill, according to the report of the committee on the bill, the purpose of the bill is to equalize competition between Federal reserve members who happen to be in the national system and the Federal reserve members who happen to be in the various State systems. My amendment does the very thing that is intended to be done by the bill. I intend by this amendment, without going into its merits now, to state my construction of it and the purpose as appears in the hearings on the bill is to equalize competition, so that I say that I am within those precedents that require an amendment to be in the logical order of the bill.

Therefore, under the artificial things, first, I am offering new qualifications to a section that has already been qualified by the committee; secondly, under those precedents that throw on the floor of the House a bill that is amended in several particulars and generally and vitally amended, I come within the rule, because this bill does that; third, I come within the logic of the situation because I intend to do by this amendment the very thing that those who propose this bill intend to do. Above all things, I come within the ruling of the chairman yesterday on a somewhat similar amendment to a prior section of the bill.

Mr. LUCE. Ordinarily, in my judgment, not much advantage is gained by a detailed discussion of points of order, but this particular point is so delicate and its decision may have such an important effect upon the future course of procedure that I crave the indulgence of the Chair if I call his attention to the aspects of the case which particularly appeal to me; and I may say that I do this without particular sympathy with my own position, because I have thought that the practice of the House in the matter of germaneness, which is more strict than in any other legislative body with which I am acquainted, has gone beyond the legitimate line. But, sir, accepting the practice of the House as we find it, and not differing from our predecessors as to the wisdom of this practice, but attempting to apply the precedents, this particular situation deserves consideration.

The gentleman who has submitted the amendment would not, of course, contend that the whole subject of banking is under consideration.

Inside of that subject he would not contend that the whole question of National and State banks is under consideration. Confining the matter still further, he probably would not contend that because the law known as the Federal reserve act is under consideration it is open to amendment in every particular. But presumably he would contend that inasmuch as a proposal to amend a certain paragraph of that act is now before the committee it is within his province to amend that paragraph in some other particular. It is of course familiar—it has been held again and again—that because an act is under consideration it does not necessarily follow that any and every amendment is permissible. The same logic would compel us

to hold, it seems to me, that because a section is under consideration it does not follow that any possible amendment is permissible. What amendments, then, are permissible? In order to determine whether some foreign matter is being brought under consideration in the guise of an amendment we have to consider the substance of the topic under consideration, which in this particular case is the matter of branch banking. If that is admitted, then the fundamental principles of the doctrine of germaneness arise. This doctrine has two factors, one that of preliminary study by a committee; the other that of surprise. The rule exists in order to provide that there shall not be presented to this House propositions that committees have not studied and propositions about which Members have had no warning. In this instance the lack of response to the purposes of the rule is palpable. The committee has not studied the proposal now presented. Secondly, the House has had no proper warning that the matter of rules and regulations issued by the Federal Reserve Board would be under consideration. For these reasons the two causes for the existence of the rule about germaneness seem to me to prevent the consideration of the gentleman's amendment.

Mr. SNELL. Mr. Chairman, I appreciate there is a very fine question involved here, and one on which there is considerable difference of opinion, and the real crux of the situation is whether the amendment presented by the gentleman from New York [Mr. BLACK] goes too far in its scope. I maintain that from the general provisions of this bill, from the original title which provides "for the consolidation of national banking associations" in a number of different sections and also amends four sections of the Federal reserve act, that this is general legislation and amends the general law in several particulars. If you can amend four provisions of the Federal reserve act in a bill, it is certainly in order to offer a germane amendment that amends a fifth provision and so on. Now, at the present time we are proposing to amend section 9 of the present bill which purports to amend section 9 of the Federal reserve act and does do it in several particulars and therefore opens up this whole proposition. I maintain that if you can offer four amendments to section 9 of the Federal reserve act, as the committee is doing under the present bill, you can also offer, and it is germane, 14. The present bill authorizes four distinct qualifications that a member bank must have to be qualified to enter or remain in the Federal reserve system. This deals entirely with the qualifications that a bank must possess in order to be permitted to remain in the Federal reserve system. If the committee bill amends that section in four specific provisions, as it does, by definitely stating that any such applying bank must be a stockholder, must do so and so, and then provides further that no member bank shall after the approval of this act be permitted to establish banks beyond the corporate limits and also in reference to foreign banking, it opens up the subject of requisites or qualifications of member banks. The amendment presented by the gentleman from New York [Mr. BLACK] deals entirely with conditions that must be complied with by State banks in order to be and remain members of the Federal reserve system. It may go a little further than the committee amendments do but it brings in absolutely no new matter, and does not in any way seek to amend or repeal the Federal reserve act except as it applies to the subject under discussion, and I maintain under the general provisions of the rules it is in order.

Mr. CHINDBLOM. Mr. Chairman, this is not, in my opinion, a question of mathematics as to how many sections of the Federal reserve act may be amended, nor in how many particulars the Federal reserve act may be amended, by the amendment proposed by the gentleman from New York. It is offered, in fact, as a substitute for what is contained in section 9 of this bill and must be germane to that section. The substance of the amendment——

Mr. BLACK of New York. Will the gentleman yield?

Mr. CHINDBLOM. Is the determining factor in the argument.

Mr. BLACK of New York. I will state to the gentleman that I accept the language of the bill in addition to this.

Mr. CHINDBLOM. That goes further in support of my position, that it is a substitute for section 9. Being a substitute for section 9 it must be germane in subsbtance and in subject matter to what is in section 9.

Mr. SNELL. Will the gentleman yield?

Mr. CHINDBLOM. I do.

Mr. SNELL. Does not section 9 deal with the qualifications that a State bank must possess in order to become a member or stay in the Federal reserve system?

Mr. CHINDBLOM. Section 9, I will say to the gentleman, from a comprehensive reading and study will appear to apply to the one subject of branch banking.

Mr. SNELL. It states specifically the conditions that the banks must comply with if they are going to enter the Federal reserve system. Is not that so?

Mr. CHINDBLOM. The subject is branch banking, and it relates only to branch banking, and of course the subject of branch banking may affect the admission of banks into the Federal reserve system.

Mr. SNELL. Is not that the special thing that is applied to branch banking—how you can get into the Federal reserve system?

Mr. CHINDBLOM. No.

Mr. SNELL. Then I can not understand the amendment, if that is not it.

Mr. CHINDBLOM. It does not cover that subject. It relates only to certain aspects of the effect of branch banking upon the members of the Federal reserve system.

The gentleman from New York [Mr. BLACK] has attempted by his amendment to amend the entire section 9 of the Federal reserve act. He covers the whole subject of admission of member banks into the Federal reserve system, of their conduct during their membership, and all the details relative to the acquisition of membership and the holding and retaining of membership; and it seems to me perfectly clear that the amendment goes way beyond anything in section 9 of the pending bill.

Mr. SNELL. The amendment provides that no member can remain in the Federal reserve system if it goes outside the limits of the city.

Mr. CHINDBLOM. But section 9 in the bill relates only to limitations on membership arising out of the operation of branch banks, I submit to the Chair.

MESSAGE FROM THE SENATE

The committee informally rose; and the Speaker having taken the chair, a message from the Senate by Mr. Craven, one of its clerks, announced that the Senate had insisted upon its amendments to the bill (H. R. 11308) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1925, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. WARREN, Mr. CURTIS, and Mr. OVERMAN as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10982) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1926, and for other purposes.

CONSOLIDATION OF NATIONAL BANKING ASSOCIATIONS

The committee resumed its session.

Mr. STEVENSON. Mr. Chairman, I desire for a minute to call attention to the question that is before us. Section 9 of this bill does not deal with the power of the Federal Reserve Board and the general rule for receiving members into the Federal reserve system. It assumes that law as it is, which is already enacted, and all the details are put in that are necessary, and that is the law.

This section merely proposes to impose a condition to the exercise of power under that act; that is, the condition that the board, under the condition stated here, shall not receive another bank as a member of the system.

Mr. SNELL. Mr. Chairman, will the gentleman yield there for a question?

Mr. STEVENSON. Not just now.

This simply adds a condition to the reception of the member banks.

What does the proposed amendment propose to do? That is getting at the question of whether it is germane to this section. It not only undertakes to limit the power of the Reserve Board to admit other members, but it undertakes also to say what kind of an application shall be made, and it rewrites the law as to State branch banking on the part of a member bank. It undertakes to rewrite the whole law which enables a member to come into the system and everything connected with it, and therefore it is far beyond and foreign to the propositon contained in the bill. [Applause.]

Mr. BLACK of New York. Mr. Chairman, in answer to the point made by the gentleman from Massachusetts [Mr. LUCE], that I have taken the House by surprise by my amendment, I wish to contradict that statement as a statement of fact. In the first place, last Friday I indicated that I would offer such an amendment as this. In the next place, last Friday I inserted in the RECORD this amendment, and on several pages of the hearings on this bill the regulations covered by the

amendment were discussed. So that I do not think there can be such a ground of objection to this amendment.

Mr. LUCE. Mr. Chairman, will the gentleman yield?

Mr. BLACK of New York. Yes.

Mr. LUCE. I used the phrase "by surprise" in a technical sense.

Mr. BLACK of New York. Yes. I am discussing this bill technically, and I realize that the gentleman did not mean alarm by his statement.

Mr. LUCE. I meant without official notice.

Mr. BLACK of New York. The gentleman from Illinois [Mr. CHINDBLOM] finds fault by suggesting that mathematics has nothing to do with the situation. By mathematics he means form, and form and structure have a great deal to do with legislation. I want to point out this, that there are two types of precedents in this House. One goes to the form of an amendment, to the scientific structure of legislation, and the other goes to the substantial features of legislation, your reason and purpose. I am within both of them. I am amending section 9 of the Federal reserve act, which we are amending by this bill, to which you have already made certain amendments in the very amendments offered by the gentleman from Illinois [Mr. MORTON D. HULL] and the gentleman from South Carolina [Mr. STEVENSON]. Those amendments are, it is true, amendments to section 9 of the bill, which contain amendments that may be made to section 9 of the Federal reserve act. They are in the main connected up with the purpose of the bill in language and in form and in every thought uttered on this floor in connection with the legislation by the proponents of the bill.

The CHAIRMAN. The Chair is ready to rule. The purpose of the bill under consideration is to amend the act of 1918 providing for the consolidation of national banking associations and of banking associations organized under the laws of the States and also to permit under certain circumstances the establishment of branch banks in a municipality and to limit branch banking in other circumstances, and to amend both the laws creating national banking associations and the Federal reserve system in certain specific details, none of which goes to the structure of either the national banking law or the Federal reserve act.

It must be conceded that the amendment offered by the gentleman from New York [Mr. BLACK], which seeks to set out a number of conditions and limitations which the Federal Reserve Board must apply to banks seeking admission to the Federal reserve system—it must be conceded that those amendments of the gentleman from New York have nothing in common with any of the specific purposes of the bill under consideration. Consequently those who hold that this amendment as proposed is in order must rely upon a rule which has been stated by the gentleman from New York, and which in concise language would be this: That to a bill amending an act in a number of particulars, an amendment repealing that act or amending any portion of that act is germane.

Now, if that were the rule, the amendment of the gentleman from New York would be in order. But it so happens that that rule is qualified in a very important particular: The bill under consideration must vitally affect and amend the whole act, to amend which it is offered, in order to make an amendment to another portion of the act germane. It is perfectly clear that neither in any vital particular nor in its structure is the national bank act or the Federal reserve act affected by the bill under consideration. Consequently this amendment, offered by the gentleman from New York, imposing new conditions upon the admission of State banks into the Federal reserve system in particulars which are not touched upon by the bill H. R. 8887 is not germane, does not come within the rule, and is not in order at any point in this bill.

The Chair thought it well to cover the broader subject in order to avoid the possibility of the same amendment being offered in some other form at another portion of the bill or as a new section.

In no event is it germane to section 9, because it is not germane to the subject matter of section 9, which is solely a limitation of branch banking by State institutions in connection with their becoming members of the Federal reserve system. That is the only subject covered in section 9 of the bill. Consequently, in view of the rule that an amendment must not only be germane to the bill but to the section to which it is offered, this amendment is not in order, and the Chair sustains the point of order.

Mr. ALDRICH. Mr. Chairman, I move to strike out the last word. I offer this pro forma amendment for the purpose of asking the chairman a question. Section 9 purports to be an amendment of the Federal reserve act, and it reads:

That the first paragraph of section 9 of the Federal reserve act be amended by adding at the end thereof two provisions and a new paragraph to read as follows—

Then it goes on in quotation and reads—

Provided, That on and after the approval of this act the board—

And so forth. Now, do the words "this act" refer to the Federal reserve act or to H. R. 8887?

Mr. McFADDEN. They refer to H. R. 8887, this bill.

Mr. ALDRICH. And that would be true of line 13, too, I suppose?

Mr. McFADDEN. It would; yes.

Mr. ALDRICH. Then, again, in line 19 appear the words "the last decennial census." I wonder whether they mean the last decennial census prior to the Federal reserve act, prior to this act, or prior to the date of the application of a bank to come into the Federal reserve system.

Mr. McFADDEN. Prior to the date of the application of a bank, as I understand it.

Mr. ALDRICH. I realize that this language has been stricken out, but the same language is used in the amendment. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

SEC. 14. That the fourth paragraph of section 13 of the Federal reserve act be amended to read as follows:

"The aggregate of such notes, drafts, and bills bearing the signature or indorsement of any one borrower, whether a person, company, firm, or corporation, rediscounted for any one bank shall at no time exceed 10 per cent of the unimpaired capital and surplus of said bank; but this restriction shall not apply to the discount of obligations which are excepted under section 5200 of the Revised Statutes of the United States, as amended, from the general limitation to 10 per cent of capital and surplus therein required."

Mr. McFADDEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN (Mr. TILSON). The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. MCFADDEN: Page 20, line 9, after the word "follows" strike out: "The aggregate of such notes, drafts, and bills bearing the signature or indorsement of any one borrower, whether a person, company, firm, or corporation, rediscounted for any one bank shall at no time exceed 10 per cent of the unimpaired capital and surplus of said bank; but this restriction shall not apply to the discount of obligations which are excepted under section 5200 of the Revised Statutes of the United States as amended, from the general limitation to 10 per cent of capital and surplus therein required," and insert in lieu thereof the following:

"No Federal reserve bank shall discount for any member bank notes, drafts or bills of exchange of any one borrower in an amount greater than may be borrowed lawfully from any national banking association under the terms of section 5200 of the Revised Statutes, as amended: *Provided, however*, That nothing in this paragraph shall be construed to change the character or classes of paper now eligible for discount by Federal reserve banks."

Mr. McFADDEN. The effect of this amendment simply broadens the limitation as to the amount of paper which may be rediscounted above the 10 per cent limit. For example, if a State member bank presents for rediscount agricultural paper which conforms to the provisions of section 13 of the Federal reserve act as to eligibility and to section 5200, Revised Statutes, as to character and amount, this paper would under the bill be eligible for rediscount by a Federal reserve bank to the same extent as it would be eligible as a liability or obligation to a national bank under section 5200. In the absence of the amendment as proposed by section 14 of the bill, such paper, although otherwise eligible for rediscount by a Federal reserve bank, would not be subject to such rediscount beyond the 10 per cent of the unimpaired capital and surplus of the applying bank.

I am of the opinion that the principle of this amendment is sound and that it should be adopted.

I here insert copy of an editorial appearing in the New York Journal of Commerce, copy of a letter to the editor, and his answer:

[From the New York City Journal of Commerce, December 8, 1924]

HACKING AT OUR BANKING SYSTEM

Almost every legislator, certainly if he be a member of a banking and currency committee, wants to take a little "flyer" in Federal reserve legislation. The country has suffered seriously from amateurish work of this kind in years past, and as a result has accumulated on the statute books a job lot of injurious or obsolete statutes. Thus we have, for example, the Edge law providing for foreign

banking corporations, of which very recently there were only two in existence, "one dead," as the poet expresses it, "the other powerless to be born"; the Phelan Act, which proved so disastrous after a year or two that action under it had to be "suspended"; and various others.

The latest of this inglorious line of measures is the McFadden bill. Unfortunately this proposal is on the surface a branch banking scheme. Most of it deals with branch banking and the major part of the discussion of it relates to that subject. But study of the McFadden bill shows that its most important provisions have nothing to do with branch banking but are intended to affect the working of the Federal reserve system. This change is accomplished in a rather clever manner. Section 5200 of the Revised Statutes has always been rather obscure and uncertain of interpretation. It provides certain restrictions and conditions under which paper may be discounted by national banks. Recognizing the desirability of clarification, the McFadden bill undertakes to restate the present provisions of section 5200 in plainer language and with only minor modification. It then turns around and without any flourish of drums or trumpets it, in a later section, makes the paper which is authorized under section 5200 rediscountable at Federal reserve banks.

Now, just what does this amount to? It would result, of course, in making a certain amount of paper eligible for discount which heretofore has not been eligible. Why has it been restricted? Simply because in all central banking systems it is universally regarded as desirable, if not absolutely necessary, to prevent the rediscounting of paper that is not liquid or that is likely to become "frozen." The original Federal reserve act was very careful to afford protection on this point, its purpose being to admit to discount only those types of paper which unquestionably represented actual sales of goods by one business man to another. The act was particularly careful to limit the issue of notes by providing that no such note could be delivered to the reserve bank by a reserve agent until after liquid commercial paper had been "put up" to protect it. There was a loophole of danger in this situation due to the fact that when the act was drafted no one expected a war to come on, with great losses of security. The act therefore left open the privilege of borrowing with Government bonds as security, while at the same time it allowed obligations of that sort to be used as protection for note issue. So when immense issues of Liberty bonds took place with corresponding issues of notes against them the Federal reserve note speedily became something very similar to a bond-secured obligation of the old national bank variety. Banks, moreover, found it very easy to borrow against the collateral which they were thus allowed to put up, and proceeded to do so.

There has been hope that in due time after normal conditions had been restored the abuses of the war period would be set aside and the dictates of sound or "scientific" central banking would be again brought to the front. No such development has taken place, but instead of that we now have the McFadden bill, in which it is proposed to make these practices permanent—and worse than ever. For instance, the McFadden bill in one of its provisions recognizes the authority to borrow heavily on notes and drafts secured by livestock. It then permits the rediscounting of this paper without the usual limitation upon such instruments when offered to a Federal reserve bank. In the same way it provides for the making of ordinary stock and bond collateral loans, then makes the note so protected eligible for rediscount.

Thus the McFadden bill in an important respect undertakes to upset the whole principle upon which Federal reserve rediscounting was based. It is true that that principle got a body blow at the time when the immense outpourings of Liberty bonds occurred. The system has, however, maintained its attitude of aloofness from collateral loans, at least in theory, and has always done lip service to the idea of business paper and liquidity in rediscounting. Yet, so far as is known, no active work is being done by Federal reserve authorities to protect the Reserve system from one of the most dangerous raids upon it that has been planned in recent years.

Can it be true that "leading bankers" or "banking authorities" are really "behind" this bill under the pretense that it relates chiefly to branch banking and is designed to "settle" that much-contested issue? It is difficult to believe so.

DECEMBER 12, 1924.

Mr. H. PARKER WILLIS,
Editor Journal of Commerce, New York City, N. Y.

MY DEAR MR. WILLIS: On December 8 there appeared in the Journal of Commerce of New York a leading editorial entitled "Hacking at our banking system," which was devoted to an attack on section 14, page 20, line 8, of Senate bill 3316. A similar bill was introduced in the House by the writer as H. R. 8887. I am not at all in discord with your views as expressed in this editorial, but you proceed upon the theory that this amendment is designed to extend the character of paper eligible for rediscount to cover every species of paper covered in the exceptions of section 5200, Revised Statutes, as amended by this bill. Under your interpretation you ridicule the idea of a Federal reserve bank rediscounting for a member bank notes secured by stocks and bonds and by livestock and the like.

I desire to say to you that it is not the purpose of this amendment to change the character of paper eligible for rediscount by Federal reserve banks, but simply to enlarge the limitation upon the amount. In fact, the character of paper eligible for rediscount is fixed by law in the very section to which this amendment is made. There is implied in the language of the proposed amendment after the word "obligations," page 20, line 15, the words "otherwise eligible for rediscount." The effect of the amendment, therefore, simply broadens the limitation as to the amount of paper which may be rediscounted above 10 per cent limit. For example, if a State member bank presents for rediscount agricultural paper which conforms to the provisions of section 13 of the Federal reserve act as to eligibility and to section 5200, Revised Statutes, as to character and amount, this paper would under the bill be eligible for rediscount by a Federal reserve bank to the same extent as it would be eligible as a liability or obligation to a national bank under section 5200. In the absence of the amendment as proposed by section 14 of the bill, such paper, although otherwise eligible for rediscount by a Federal reserve bank, would not be subject to such rediscount beyond the 10 per cent of the unimpaired capital and surplus of the applying bank.

I am of the opinion that the principle of this amendment is sound, and no objection has heretofore been made to it from any source. My purpose in calling this matter to your attention is to suggest that you have been proceeding upon an erroneous interpretation of the intent of the amendment.

It is my desire to remove any doubt or ambiguity of language, and when the bill comes up for consideration on the floor of the House it will be my purpose to offer a redraft of the resolution so it will read as follows:

"No Federal reserve bank shall discount for any member bank notes, drafts, or bills of exchange of any one borrower in an amount greater than may be borrowed lawfully from any national banking association under the terms of section 5200 of the Revised Statutes, as amended: *Provided, however*, That nothing in this paragraph shall be construed to change the character or classes of paper now eligible for discount by Federal reserve banks."

This language, it seems to me, will accomplish exactly the same purpose as intended by the language in the bill. It does, however, follow the form of a previous amendment to section 9, paragraph 10, of the Federal reserve act which reads as follows:

"No Federal reserve bank shall be permitted to discount for any State bank or trust company in an amount greater than that which could be borrowed lawfully from such State bank or trust company were it a national banking association."

Knowing the active part that you took in the drafting of the Federal reserve act and its operation subsequently and your continued interest therein, I felt justified in advising you as above.

I am only trying to be helpful, and suggestions from people who know are always appreciated.

Very truly yours, L. T. MCFADDEN.

THE JOURNAL OF COMMERCE AND COMMERCIAL BULLETIN,
New York, N. Y., December 16, 1924.

Hon. L. T. MCFADDEN,
Committee on Banking and Currency,
House of Representatives, Washington, D. C.

DEAR MR. MCFADDEN: Your letter of December 12 has been received and read with interest and approval. I am glad to know the position you take and glad that there is no intention in the McFadden bill to alter the character of the paper eligible for rediscount.

I think the provision which you speak of inserting will improve the language, and thus remove what seems to me a serious ambiguity in the present bill.

The real point of the complaint, of course, is found in the fact that such paper should be eligible for rediscount with reserve banks at all. It never ought to have been made so rediscountable, and yet if political pressure or agricultural necessity compelled it, then surely it should be held down to the minimum possible figure, and we should not provide that increased quantities of it may be discounted with reserve banks. The effect of such action undoubtedly is to "freeze" the assets of reserve banks, as was the case in 1921; and I do not need to enlarge upon the dangers involved in that action.

My opposition to the McFadden bill as drafted at the present time is based entirely upon a desire to see the legislation that may be adopted on this subject as thoroughly understood as possible and as free from uncertainties or ambiguities as possible. The change which you now propose will evidently eliminate one such fault in the bill and thus undoubtedly improve it.

In order to put our readers on the right track with regard to the intent of the McFadden bill are we warranted in printing your letter or not? We should be very glad to be permitted to do so.

Yours very truly,

H. PARKER WILLIS, *Editor.*

Mr. MCFADDEN. In the way of additional explanation I would say that the language of the amendment would accom-

plish exactly the same purpose as that intended by the language of the bill; that is to say, a Federal reserve bank would be permitted to discount for a member bank the same amount of eligible paper which a national bank might advance under the terms of section 5200, Revised Statutes, to a customer possessing such paper. However, the language of the bill has appeared ambiguous to certain students of the Federal reserve system, and the fear has been expressed that it would radically change the character of eligible paper by permitting the rediscount of paper not now eligible for rediscount. Such is not the intention of the language of the bill. It does not in any way broaden or change the character of eligible paper. The question of eligibility, being fixed by the Federal reserve act, is not involved, but only the amount which may be borrowed upon paper already eligible. But in view of the fact that this language has been misunderstood in several quarters, it is thought best to rewrite the paragraph so as to remove all question of doubt as to its true intent.

Mr. McKEOWN. Will the gentleman yield for a question?

Mr. McFADDEN. Yes.

Mr. McKEOWN. Under the language contained in the amendment would it be possible for these marketing associations to obtain funds from their local banks rather than having to go to larger banks to get accommodations?

Mr. McFADDEN. The general amendments to section 5200, which are in this bill, greatly clarify that opportunity for those cooperative associations.

Mr. McKEOWN. I will say to the gentleman that the Cotton Association, for instance, in Oklahoma, on account of the present limitations, is compelled to go to New York City in order to get sufficient finances.

Mr. McFADDEN. The gentleman will find that the amendments we have made to section 5200 cover his situation. In further answer to the gentleman from Oklahoma I would say that section 10 of the bill is a reenactment and clarification of section 5200 of the Revised Statutes, which imposes a general limitation of 10 per cent of the bank's capital and surplus upon loans to any one person. The general limitation of 10 per cent and the exceptions thereto, as written in the bill, remain practically the same as under existing law. The difficulty in the interpretation of section 5200, as it is now carried on the statute books, is due largely to the complexity of its language, amendments having been added from time to time to the original provision, and owing to the general confusion among those who are charged with the interpretation of the law, as well as those bankers of the country who are operating under this law, it was considered advisable to rewrite the whole section in precise legal terminology, so that exception to the 10 per cent limitation would stand as a complete statement capable of being interpreted with reference to any other part of the law.

I appreciate the fact that the language of the bill is still necessarily technical, because it is dealing with the intricate processes involved in financing commercial transactions. I believe that those banks who will operate under this section will find no difficulty in understanding this section as now written. No section of this bill has had more careful consideration by your committee than has this section, and is the natural outgrowth of many consultations of Government officials and numerous bankers and their counsels from every part of the country. The language, as it now stands, will remove many difficulties confronting a national bank examiner in determining the legality of loans under their jurisdiction.

DETAILED EXPLANATION OF AMENDMENT TO SECTION 5200, REVISED STATUTES

The first paragraph of the bill limits the total amount for which any one person may become liable to a national bank to not more than 10 per cent of the bank's capital and surplus. This is the same provision as that of the existing law. The language of the existing law is, however, clarified by this section by defining the term "obligations" so as to include under the 10 per cent limitation both the person who is primarily liable upon paper discounted as well as the indorser, drawer, or guarantor where such indorser, drawer, or guarantor is the person who obtains the money from the bank for his own benefit. Under the existing law there is a twilight zone which makes it difficult to define or enforce this 10 per cent limitation against the person who although indirectly liable to the bank on the paper is in fact the person who is the real borrower. Such a borrower, however, may obtain an additional 15 per cent of the bank's capital and surplus under exception No. 4.

Exception No. 1 is the same as the existing law and has been a part of the national bank act since 1864.

Exception No. 2 remains also unchanged.

Exception No. 3 is the same in substance as the existing law. The word "demand" is omitted in front of the word "obligations." Under the language in the bill both demand and time obligations would be eligible for exemption from the 10 per cent limitation.

Exception No. 4 places a limitation of 15 per cent in addition to the 10 per cent of capital and surplus upon indorsed or guaranteed paper other than commercial paper. In other words, it allows a customer to discount in addition to his 10 per cent line an additional line of 15 per cent of notes not arising directly out of commercial transactions. This would include such paper as renewed commercial paper, personal loans, notes in settlement of past due debts, notes given for the purchase of livestock, notes given for personal services and the like. At the present time there is no definite legal limitation upon the amount of this character of paper which a national bank may discount for any one customer. It would seem that 15 per cent additional of such paper is regarded as ample latitude for any national bank. As to renewed commercial paper this exception is a liberalization since renewed commercial paper now under the comptroller's rulings is thrown back upon the regular 10 per cent limitation. As to other notes indicated above, this exception may be regarded as a restriction since now they are regarded as exempt entirely from the 10 per cent limitation and can only be controlled through collateral pressure brought by the comptroller.

Exception No. 5 makes no change in the existing law. Bankers' acceptances are regarded as a highly desirable form of investment. They have a low discount rate. The following may be given as an example of a commercial transaction involving a banker's acceptance. The seller of goods in a foreign country having made the necessary credit arrangements draws on a New York bank. When the New York bank accepts the draft it becomes the direct obligation of that bank and is known as a banker's acceptance, and as such may be purchased by any national bank without regard to the limitation of section 5200. Again, a merchant in Chicago buying goods in New York may make arrangements with the Chicago bank to accept drafts drawn by him. He usually takes with him a letter of credit from the Chicago bank showing his authority to draw. He buys goods from a New York wholesaler, draws on his Chicago bank, and the wholesaler through his New York bank transmits the draft for formal acceptance by the Chicago bank. The paper thus accepted becomes negotiable paper subject to the exemption provided in this exception.

Exception No. 6 covers transactions involving the marketing or temporary storage of readily nonmarketable perishable staples. It would cover such staples as cotton and wheat. It makes no restrictive change in the existing law, but makes the following liberalizations:

(1) It changes the time limit at the end of the paragraph from 6 months in the existing law to 10 months and adds the words "arising from the same transaction and secured upon the identical staples." Under the existing law a customer may not have in the bank this class of paper for 6 months in any consecutive 12 months. In other words, he must be absolutely clear of the bank with this class of commodity paper for 6 months out of any 12, regardless of the amount of such commodities he may have. In other words, having one loan with the bank upon certain staples would bar him from making another loan upon different staples. A customer of the bank who may have cotton, tobacco, and livestock available for security at different times within the year could only have one loan running for 6 months and no others until the lapse of 6 months. The bill would permit as many loans as there were staples to secure them to the extent of 115 per cent of the face amount of the notes and each such loan could run for a period of 10 months. Under the bill there must be a period of 2 months in any consecutive 12 months in which the customer must be clear as to the particular loan. In other words, the section particularly prevents the renewal of commodity paper in order that such commodities may be held for speculation. The customer must clean up each loan after a 10 months' period.

(2) This exception also makes another change in existing law by permitting an additional 5 per cent of capital and surplus exemption for each additional 5 per cent increase in the value of such staples by a gradual gradation until the value of the staples is not less than 140 per cent of the final additional obligation. The increase in the exemption only applies as to the amount of money obtained each time additional security is put up.

Exception No. 7 is substantially the same as existing law. Two changes in language are made, as follows:

(1) The requirement for insurance upon livestock is omitted. This requirement has been impossible of application and practice, as no insurance is carried on livestock. Insurance requirements in the existing law relate primarily to readily marketable staples.

(2) The 6 months' limitation in any consecutive 12 months, which was also intended by the existing law to apply primarily to readily marketable staples, has been omitted, so far as livestock is concerned. No time limit is put in this exception at all, that being a matter which should be left to the bankers who are familiar with the local conditions involving fattening and shipment of livestock.

Exception No. 8 is the same as the existing law except the bill allows 15 per cent on Liberty bonds instead of 10 per cent.

Exception No. 9 is new language. National banks at the present time are engaged to a greater or lesser extent in buying and selling investment securities. There is no express power given in the national banking laws authorizing the conduct of this character of business. Nevertheless this is a form of service demanded by banks and it has come to be recognized as a legitimate banking service.

Under section 5136, Revised Statutes, a national bank is authorized to discount and negotiate promissory notes, drafts, bills of exchange, "and other evidences of debt." The Comptroller of the Currency has considered these investment securities as "other evidences of debt" and, therefore, authorized under the national bank act. This business, however, has become too important to the banks to hang by such a slender thread of legal interpretation. This exception, therefore, in connection with the last section of the bill recognizes and legalizes this practice and limits the amount which any national bank can take of any one issue of securities to 25 per cent of the capital and surplus of the bank. In other words, this exception properly considers a bond or debenture as an obligation which should be governed by the provisions of section 5200, Revised Statutes.

At the present time there is both uncertainty and inconsistency in the legal status of this business which is being carried on without any legal restrictions, and, although recognized by the comptroller, he has found no provision in section 5200 applicable to the control of it.

This exception will put no undue restriction upon the banks, since 25 per cent of capital and surplus of any one issue of bonds is considered ample latitude for any national bank.

Mr. WINGO. Mr. Chairman, I have not had an opportunity to study the amendment very closely, but I shall not oppose it on the assurance of the gentleman that it simply states in possibly better language what the bill already states.

Section 5200, which we rewrote in the bill, together with the language that is stricken out, did arouse some fear in certain quarters. I understand that possibly our good friend Parker Willis was somewhat alarmed about the effect of the bill. All we did in section 5200 was to rewrite it so as to restate it in language that could be understood. At the present time you can not get any two experts to agree on what section 5200 means. You will have two bank examiners, equally proficient, disagreeing about its terms. One will hold one thing under section 5200, while the other will hold another thing in connection with the same identical situation.

The charge was made—and I am going to take advantage of this opportunity to suggest that the fear is ill-founded—that by rewriting section 5200 we open the floodgates to a lot of frozen credits and permit them to get into the Federal reserve system. But that was not the object. Section 5200, as it appears in the bill, was written by one of the ablest country bankers in America, George Bell, in consultation with Mr. Collins, of the comptroller's office. It was gone over carefully by those gentlemen, the gentleman from Pennsylvania [Mr. McFADDEN], the Comptroller of the Currency, and myself. All that was intended was a sane, sensible restatement of the limitations of section 5200, and it was not intended to have a radical change made. I would go further, and I have wanted to go further than they go, but these gentlemen insisted that we simply restate the proposition and add only one new feature, and that was a progressive rate of increased marketing value margin under section 5200. Mr. Willis thought that possibly by this new language and the language now stricken out by this amendment we increased the classes and eligibility of paper for rediscount, but the fact is that the restating of section 5200 simply restated a limitation as to percentage of the borrowing capacity of any individual from a national bank. It did not cover the question of eligibility of paper at a Federal reserve bank. And with the assurance of the chairman of the committee that the amendment he offers does not do any more than what he says I shall not oppose the amendment, and I hope it will be adopted.

Mr. HILL of Maryland. Will the gentleman yield for a question?

Mr. WINGO. I yield.

Mr. HILL of Maryland. The redraft of section 5200, which has just been passed in the bill, is the one to which the gentleman referred in his account of the work on its preparation and is the same one that is in the text of the annual report of the comptroller for 1924, is it not?

Mr. WINGO. I think it is, although I do not recall. I know this language was approved by the comptroller's office; in fact, the comptroller was present, with the gentleman from Pennsylvania [Mr. McFADDEN] and myself and the real author of it, Mr. George Bell, a banker from Arkansas, ex-president of the State bankers' association, whose judgment I relied upon as to the technical banking provisions, and who is really the author of it, together with Mr. Collins, of the comptroller's office, and it was approved by Mr. Dawes as a sound and safe rewriting of that provision.

Mr. HILL of Maryland. I think it is very proper that the gentleman should make that explanation in order to tie up definitely the rewriting with any possible suggestion that it does open the floodgates for frozen credits.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. McFADDEN].

The amendment was agreed to.

Mr. McKEOWN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman and gentlemen, I trespass on your patience at this time in order to save time. I have several small amendments to offer, and I want to discuss them at one time so as not to take up five minutes on each one of them. I am going to call them to the attention of the committee, because I am offering these amendments not from a disposition to try to thrust my ideas on the House, or anything of that kind, but the next section has to do with the lock-box proposition. It authorizes the banks to engage in this business lawfully and is a privilege which I think ought to be granted to them; but the proposition I have in mind is this: If they go into the hands of a receiver, there ought to be a provision to the effect that the receiver shall not interfere with the right of the lessee of the lock boxes to have access to his property, and if there is any contention about the contents of the box the receiver should be compelled to go into the courts to restrain or prevent the owner from having access to his box.

This is a situation that can arise where a receiver, taking charge of a failed bank, can arbitrarily deprive the lessees of the lock boxes from having access to them. If you do not intend to permit that, then you ought to adopt an amendment. My amendment is rather crude and is simply as follows:

Provided, Whenever a bank shall be placed in the hands of a receiver holders of lock boxes shall not be deprived by the receiver of the right to hold and control their lock boxes.

Another thing I wanted to bring to the attention of the committee is the language fixing the punishment for the robbery of banks.

I am glad to see this committee bringing in a bill making it a felony to rob national banks and giving the Federal courts of this country an opportunity to punish bank robbers who are so ruthlessly robbing the banks of this country. The bill provides that upon conviction the robber shall receive a sentence of not more than 25 years. That language ought to be not less than 10 years nor more than 40 years. Any man who goes with arms to rob a bank or rob any individual ought not to receive less than 10 years in the penitentiary. For my part, they are citizens who ought not to be loose at all.

In the bill you say not more than 25 years, whereas in the State of Oklahoma, for instance, if a man robs a State bank in that State he gets not less than 25 years, and in my opinion the language should be not less than 10 years nor more than 40 years, and I have an amendment to offer which so provides.

Another provision I want to call to your attention is the provision in the bill with reference to conspiracy. Section 17 provides that if two or more persons shall conspire to boycott, blacklist, or cause a general withdrawal of the deposits, and so forth. I want to say to you gentlemen that the way the provision is now drawn, it is one that will cause a lot of trouble. The bitterness between rival banks in small towns is not exceeded in any competitive business in the world, and you will have a lot of fellows arrested and put on trial be-

cause, for instance, they solicited the account of some fellow who has his funds in the first national bank, for instance.

Mr. WILLIAMSON. Will the gentleman yield?

Mr. McKEOWN. I yield.

Mr. WILLIAMSON. I may say to the gentleman that an amendment will be offered by a member of the committee striking out in line 15, on page 22, the words "or to cause a withdrawal of patronage from."

Mr. McKEOWN. I was going to offer this suggestion, which, in my judgment, will do what you want done.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. McKEOWN. Mr. Chairman, I ask unanimous consent to proceed for five additional minutes.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to proceed for five additional minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. McKEOWN. Now, gentlemen, listen to the language of this proposed amendment:

Strike out the paragraph and insert this language:

"That it shall be unlawful for any person to willfully and maliciously make any false statement relative to the financial condition of any national bank or any member of the Federal reserve system, which statement shall tend to injure the business or good will of any such bank or institution or tend to cause a general withdrawal of deposits from or cause a withdrawal of patronage from any such national bank or member of the Federal reserve system, and such person shall be guilty of a misdemeanor and punished"—

And so forth, just as you provide in the bill.

You provide in this section punishment for a conspiracy, but what do you mean by a conspiracy to withdraw deposits? You are not going to punish some fellow who goes out and solicits a man to bring his business from a national bank to a State bank. That is not what you want to do. In the first place, you can not prove a conspiracy, but under this proposed language you make it a crime for a man to willfully and maliciously make a false statement about the financial condition of the bank.

Here is what takes place. It is the viciousness of the statement. Some fellow goes out into the community and says this bank is in a failing condition; he says that because he is angry at some man in the bank. Now, why not punish the man that makes the statement? You say conspiracy. I say the man that makes the false and malicious statement as to the financial condition of an institution which tends to cause a run on the bank should be punished. Why go after the conspirators?

Now, here is an innocent statement that caused a lot of trouble in the District of Columbia some years ago. A man gave a check for $25. The man did not have sufficient funds in the bank. It went to the bank, and the bank returned the check with the notation, "Not sufficient funds." The payee went around through the community and said, "What is the matter with this bank; they did not have enough money to pay $25?" In three hours there was the worst run on that bank that ever was made. There was a statement that was innocently made.

If you adopt this amendment—and I have no pride in the authorship—if you say it shall be unlawful for any person to willfully and maliciously make a false statement, then you can punish him without having to go and see whether there was any conspiracy hatched up. You can not always prove a conspiracy, but you can punish the man that makes the false and malicious statement.

Mr. WILLIAMS of Michigan. Will the gentleman yield?

Mr. McKEOWN. I will.

Mr. WILLIAMS of Michigan. It seems to me that it would be better to take this up when we come to the section.

Mr. McKEOWN. I was undertaking to save a little time by discussing these amendments together which I propose to offer.

Mr. WILLIAMS of Michigan. Let me say to the gentleman that in the original bill before us there was a section somewhat similar to the provision the gentleman speaks of. In the Senate the committee in reporting the bill has put that section back into the bill.

Mr. McKEOWN. I am glad to know that.

Mr. HILL of Maryland. The gentleman's amendment goes to section 17, page 22?

Mr. McKEOWN. Yes; line 13, page 22. Now, there is another amendment which I wish to discuss. You make it a crime for a man to dispose of mortgaged property that will necessitate a prosecution of the case in a Federal court. I am sure you men do not want to make it a crime to be prosecuted in a Federal court for disposing of mortgaged property in a national bank, whereas if a borrower of a State bank disposes of mortgaged property the prosecution is in the State court.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McKEOWN. I ask for three additional minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. RAMSEYER. Will the gentleman yield?

Mr. McKEOWN. I will.

Mr. RAMSEYER. Are not the offenses described in section 17 offenses covered by the State laws? Do not national banks have protection of the State laws the same as State banks and other corporations and individuals of the State?

Mr. McKEOWN. That is true.

Mr. RAMSEYER. Now, tell me why a national bank should have the protection that other citizens in that State do not enjoy, unless you want to give national banks a preferred status and an advantage over their competitors.

Mr. McKEOWN. Some of these offenses can not be made offenses in the State which are necessarily an offense against national-bank associations.

Mr. RAMSEYER. I venture to state that there is not a State in the Union that has not criminal statutes covering every one of these offenses.

Mr. McKEOWN. I know that most of the States do have; but I was about to say that in this question of disposing of mortgaged property, the courts are not often resorted to as a collection agency with which to make a man pay if there is any dispute.

Mr. RAMSEYER. Exactly, and the first paragraph in the section is nothing more than a provision directed at State banks because they are the competitors of the national banks, and the only ones against which the charge of conspiracy could possibly be trumped up.

Mr. McKEOWN. I do not think we ought to permit persons to go indiscriminately over the country and purposely and maliciously slander a bank.

Mr. RAMSEYER. But the State laws cover that; if they do not, they ought to.

Mr. McKEOWN. Now, I wanted to call the attention of the committee to this.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired.

Mr. RAMSEYER. Mr. Chairman, I ask that the gentleman's time be extended two minutes. I want to ask him a question.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. RAMSEYER. What is the necessity for further extending the Federal police powers and displacing or absorbing the State police powers in this particular instance? This section goes clear outside of the limits within which Congress has heretofore undertaken to legislate.

Mr. McKEOWN. I am very jealous of the right of the States to carry on their own police powers, but I am calling the attention of the committee to what I think would be serious legislation if enacted into law by Congress. I am offering an amendment, the best I can, to correct that.

Mr. RAMSEYER. Would it not be better for the gentleman to line himself up back of an amendment striking out the entire section from the bill? If some gentleman on the committee does not do that, I will.

Mr. Chairman, section 17 of the bill referred to in the foregoing colloquy reads as follows:

SEC. 17. That section 22 of the Federal reserve act be amended by adding at the end thereof five new paragraphs, to read as follows:

"(g) If two or more persons conspire to boycott, or to blacklist, or to cause a general withdrawal of deposits from, or to cause a withdrawal of patronage from, or otherwise to injure the business or good will of any national bank, or any other member bank of the Federal reserve system, and one or more of such parties do any act to effect the object of such conspiracy, each of the parties to such conspiracy shall be deemed guilty of a misdemeanor, and shall upon conviction in any court of competent jurisdiction be fined not more than $5,000 or imprisoned for not more than five years, or both.

"(h) Whoever shall assault any person having lawful charge, control, or custody of any money, securities, funds, or other property in the possession of any member bank of the Federal reserve system with intent to rob, steal, or purloin such money, securities, funds, or other property, or any part thereof, or whoever shall rob any such person of such money, securities, funds, or property, or any part thereof, shall be imprisoned not more than 20 years; and if in effecting or attempting to effect such robbery he shall wound such person having custody of such money, securities, funds, or other property, or put his life in jeopardy by the use of a dangerous weapon, shall be imprisoned for not more than 25 years.

"Whoever shall break into and enter any member bank of the Federal reserve system with intent to commit a felony therein shall be imprisoned for not more than 20 years.

"(i) Whoever shall make any statement, knowing it to be false, for the purpose of obtaining for himself or for any other person, firm, corporation, or association a loan of money from any member bank of the Federal reserve system shall be punished by a fine of not more than $5,000, or by imprisonment for not more than five years, or both.

"(j) Whoever shall conceal, dissipate, sell, or fraudulently divest himself of any personal property upon which there is a mortgage executed by him to any member bank, shall be punished by a fine of not more than $5,000, or by imprisonment for not more than five years, or both."

When this section was read, Mr. WINGO, of Arkansas, a member of the Banking and Currency Committee, made a motion to strike it out. After some discussion Mr. MCFADDEN, the chairman of the committee, agreed to the motion to strike, and thereupon the motion to strike was carried overwhelmingly.

I do not care to discuss the paragraphs of that section. Any lawyer who knows anything at all about criminal law can observe from a cursory reading of the section that the paragraphs contained therein were very loosely and carelessly drawn. My chief objection to the section was that it undertook to extend the Federal police powers to cover offenses that are already covered thoroughly by laws of all the States.

This section proposed to extend the police powers of the Federal Government. That is absolutely unnecessary, as there is not a State in the Union that does not enforce its laws against these crimes. There is no good reason why the Federal Government should displace the State governments in punishing ordinary offenses against property. The State governments should not turn over to the Federal Government, nor should the Federal Government take from the State governments, responsibilities which rightfully belong to the State governments.

The property and business of a national bank is no more sacred than the property and business of a State bank or the property and business of any other corporation or the property and business of an individual. The State laws are supposed to protect the property and business of all banks, of all corporations, and of all individuals within the State. To extend the police powers of the Federal Government for the protection of the property and business of the national banks would be giving the property and business of the national banks additional protection not enjoyed by State banks and the corporations and the individuals of the States.

The Federal laws relating to national banks impose certain duties and obligations on the national banks and on the officers of such banks and other officers designated by said laws. Certain offenses committed by such officers in the discharge of their duties are made punishable by Federal laws. This is proper and necessary. But to embark on a program of criminal legislation as proposed in section 17 would, in my judgment, result on the whole in much harm.

National banks are citizens of the States in which they are respectively located, and as such they receive the protection of the laws of such States, the same as other citizens within the States in which they are located. That is the declared policy of the Federal Government. With but few exceptions, all suits by national banks or against national banks are brought in the courts of the States in which such national banks do business. The policy of the Federal Government in this regard finds expression in the following sections of the national bank act as amended:

NATIONAL BANKS DEEMED CITIZENS OF STATES IN WHICH LOCATED (ACT AUGUST 13, 1888)

SEC. 4. That all national banking associations established under the laws of the United States shall, for the purposes of all actions by or against them, real, personal, or mixed, and all suits in equity, be deemed citizens of the States in which they are respectively located; and in such cases the circuit and district courts shall not have jurisdiction, other than such as they would have in cases between individual citizens of the same State. The provisions of this section shall not be held to affect the jurisdiction of the courts of the United States in cases commenced by the United States or by direction of any officer thereof or cases for winding up the affairs of any such bank.

STATUS NOT CHANGED BY EXTENSION—JURISDICTION OF SUITS BY OR AGAINST NATIONAL BANKS (ACT JULY 12, 1882)

SEC. 4. That any association so extending the period of its succession shall continue to enjoy all the rights and privileges and immunities granted and shall continue to be subject to all the duties, liabilities, and restrictions imposed by the Revised Statutes of the United States and other acts having reference to national banking associations, and it shall continue to be in all respects the identical association it was before the extension of its period of succession: *Provided, however,* That the jurisdiction for suits hereafter brought by or against any association established under any law providing for national banking associations, except suits between them and the United States, or its officers and agents, shall be the same as and not other than the jurisdiction for suits by or against banks not organized under any law of the United States which do or might do banking business where such national banking associations may be doing business when such suits may be begun; and all laws and parts of laws of the United States inconsistent with this proviso be, and the same are hereby, repealed.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired, and the pro forma amendment will be withdrawn.

The Clerk read as follows:

SEC. 15. That section 13 of the Federal reserve act be amended by adding at the end thereof a new paragraph to read as follows:

"That in addition to the powers now vested by law in national banking associations organized under the laws of the United States, any such associations may engage in the business commonly known as safe-deposit business either by leasing receptables on its premises or by owning stock in a corporation organized under the law of any State to conduct a safe-deposit business located on or adjacent to the premises of such association: *Provided, however,* That the amount invested in the capital stock of any such safe-deposit corporation by such association shall not exceed 15 per cent of the capital stock of such association actually paid in and unimpaired and 15 per cent of its unimpaired surplus."

Mr. BURTNESS. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BURTNESS: Page 21, strike out all of lines 1 to 9, inclusive

Mr. BURTNESS. Mr. Chairman and gentlemen of the committee, if I understand the situation correctly, heretofore the so-called safe-deposit business that has been conducted by national banks has been of doubtful legality. Personally, I have no objection whatever to legalizing that form of business. The only purpose of my amendment is to limit the conduct of that business and the responsibilities of the bank with reference thereto only in the same way as the conduct of any other banking business by national banks is limited. Under the amendment I propose, if the bank wants to do a safe-deposit business it may do so, but in its dealings with the public in that regard all of the assets of the bank as such would be back of that business in the same way as they are back of its other lines of business. The objectionable language in this section, as it occurs to me, is that which would allow a bank to invest a small percentage of its capital stock, not to exceed 15 per cent, in some other corporation over which Congress has no control whatever, some corporation organized under State laws, and permit such corporation to conduct the safe-deposit activities. Those State laws might properly protect the people doing business with the national banks and they might not. We do not know what they would do, and it seems to me that it is a very doubtful question whether Congress should undertake and approve that sort of policy. A national bank is doing general banking business and organizes a little corporation, a subsidiary of some kind, as it may under the section involved. It puts a small amount of money into it—the amount may be nominal—there are no safeguards here whatever. In conducting such business that subsidiary corporation may become negligent, it may in fact be guilty of the grossest kind of negligence to a person dealing with it, a person who has turned securities over to it for safe-keeping, and yet under this section the bank itself would not be responsible therefor. If the corporation has only a nominal capital, there would probably be no assets for a person who has suffered because of its negligence to proceed against, even after recovering judgment for his loss. The people investing their money in that corporation, including the bank, would not be liable in the absence of State law to the effect for the double liability that stockholders are liable for in connection with any other banking business that may be done.

Mr. JONES. Mr. Chairman, will the gentleman yield?

Mr. BURTNESS. Yes.

Mr. JONES. I am interested in the gentleman's proposition. Is it his contention that a person might come in thinking the bank is responsible for the deposits and find that some dinky little corporation is?

Mr. BURTNESS. Of course. That would be the situation in so far as the public is concerned, because the public would not differentiate between this subsidiary State corporation that may be doing business in some corner of a bank and the bank itself; and the gentleman will note that this corporation which may perform the safe-deposit business must be located on or adjacent to the premises of the bank. So of course there would be no doubt of the fact that generally speaking the average individual or customer would think that he was dealing with the bank as such, but if something happens, if loss occurs due to negligence in the conduct of the business, and the customer desires to obtain redress for the negligence, then he would probably find out for the first time that the bank itself was not responsible, but that some corporation which might have no particular financial standing behind it was alone responsible.

I think we may concede for the sake of argument that in some States the State laws would be strict enough so that the corporation permitted to do a safe-deposit business would have some financial standing behind it. That might be true in many cases, but it is not necessarily true in all cases, and I object to the policy of Congress legislating in that way, and giving that sort of right to subsidiary corporations organized and controlled only under State laws in the conduct of matters that pertain so directly to national banks.

Mr. STEAGALL. Is it not true that there is no law that requires a national bank to engage in the business of conducting a safe-deposit business?

Mr. BURTNESS. I understand that now it is entirely optional with the bank.

Mr. STEAGALL. If we give the permission, they should do it in the regular course of business so that the bank will be bound.

Mr. BURTNESS. That is my contention, precisely.

The CHAIRMAN. The time of the gentleman from North Dakota has expired.

Mr. BURTNESS. Mr. Chairman, I ask unanimous consent to proceed for three minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BURTNESS. The position I take is in accord with the one that has been suggested by the gentleman from Alabama [Mr. STEAGALL]. The bank does not have to engage in safe-deposit business now. If this law is enacted, it will not have to engage in that business in the future. It will remain purely optional with the bank. If it is to the business interest of the bank that it engage in safe-deposit business, then it seems to me that the entire bank should stand behind it, all of the assets of the bank, and that the stockholders who are interested in the bank should be willing to be liable for double the amount of their stock in the event of negligence on the part of the banking officials or employees as in other cases, and the bank would not be liable in any event except for negligence.

Mr. McKEOWN. Is it not a fact that the safe-deposit business of national banks is simply carried on by the bank for the accommodation of its customers?

Mr. BURTNESS. That is generally true, and possibly other lines of business are conducted by the bank more or less for the accommodation of depositors, all, however, for the purpose of building up the gross business of the bank and increasing its earnings. I am not offering this amendment as an opponent of the bill. I am supporting the bill. I voted for the Hull amendments which were adopted by the majority of the committee, but outside of those amendments I have voted against changes in the measure.

I am in favor of this legislation, but in this section is involved a proposition which upon its face is purely for the welfare of the bank itself, and does not take into consideration the interest of the people who do business with the banks, and it is the duty of Congress to protect and safeguard in proper ways the people who do business with the banks even more zealously than the banks themselves.

Mr. STEAGALL. Will the gentleman yield? Is not this true, that instead of stopping with the general authority of the bank to engage in the safe-deposit business we authorize them, unless the gentleman's amendment is adopted, to subscribe 15 per cent of the capital stock and 15 per cent of its surplus in a corporation by which somebody else is authorized to engage in the safe-deposit business, using the good name and the patrons of that bank to do business with?

Mr. BURTNESS. That is it exactly and it should not be permitted.

The CHAIRMAN. The time of the gentleman has again expired. The question is on the amendment offered by the gentleman from North Dakota.

The question was taken, and the Chair announced the ayes appeared to have it.

On a division (demanded by Mr. McFADDEN) there were—ayes 49, noes 67.

So the amendment was rejected.

Mr. McKEOWN. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. McKEOWN: Page 21, line 9, after the period insert "Provided that whenever a bank shall be placed in the hands of a receiver, holders of lock boxes shall not be deprived by such receiver of the right to hold and control their lock boxes.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chair announced the noes appeared to have it.

On a division (demanded by Mr. McKEOWN) there were—ayes 37, noes 54.

So the amendment was rejected.

Mr. BURTNESS. Mr. Chairman, I offer the following amendment. I do not send it up in writing, but it is to strike out section 15, and on that I desire to be heard.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. BURTNESS: Page 20, beginning in line 19, strike out all of section 15.

Mr. BURTNESS. Mr. Chairman and gentlemen of the committee, the only reason why I am bold enough to offer an amendment to strike out the section which, in substance, accomplishes what the amendment just voted down would have done, is the fact that it was plain that of those who heard the discussion on the amendment which I first offered, namely, to strike out the first nine lines of section 21, a very substantial majority voted for it, and that the amendment was defeated only because men who were in the cloakrooms who had not heard the discussion came in on a division and voted against the adoption of the amendment. For that reason I feel justified to present one or two features in connection with the matter again.

Mr. McKEOWN. Will the gentleman yield for a question?

Mr. BURTNESS. I will.

Mr. McKEOWN. Does the gentleman know that the Comptroller of the Currency, under receivers when they take charge of a bank, will not allow the lock-box holders to have access to their own property, and this would be construed as giving them authority of Congress to do it?

Mr. BURTNESS. I do not know that from any personal knowledge. I do know this, that national banks now are in a great many cases doing what is generally known as a safe-deposit business, and that it is being done more or less all over the country, and therefore there can be no great need to pass this section in order to legalize that kind of business. However, as I have said before, I have no objection to specifically legalizing such business by this or any proper law, if it is thought advisable to do so, and my sole objection goes to the proposition that the national banks can invest a small nominal amount in a separate corporation, turn the business of that corporation over to somebody else, or do it themselves, I do not care which—probably usually conduct it themselves in connection with the rest of their banking business, hold themselves out to the public as if their entire bank and all the assets of the bank were behind that business, and then, later, if they are guilty of negligence, escape liability for the loss. In other words, if a customer who deals with it suffers loss because of negligence, I object to allow that bank or its subsidiary corporation to come into court and say, by way of defense, "Why, we did not do this as a national bank; we did this as a little corporation which we organized under a State law here in this State and which Congress permitted us to do." Why, I think, as I said before, it is going entirely too far, and while I admit the import of this amendment is similar to the amendment which I have already offered, it is practically the same question, and I would like to have it voted on again. I hope also it may be more thoroughly discussed, before the voting is done, by other gentlemen upon both sides who are interested in the matter.

Mr. JONES. Mr. Chairman, I obtained the floor in the hope that I might induce some member of the Committee on Banking and Currency to explain this proposition. It seems to me according to the arguments made here, and which seem plausible, that a bank with a million-dollar capital stock can organize, say, a $10,000 side corporation. This corporation may accept

deposits of property in its safety-deposit vaults and yet the bank be in no way responsible for the safe-keeping of such valuables.

Mr. BEEDY. If the gentleman will allow, at first blush I think one would be justified in assuming that the gentleman from North Dakota had presented a very serious objection to the provisions of this bill. But if you will stop to think for a moment, if the gentleman's amendment is adopted, it occurs to me that the public might be less benefited than if the bill were left to stay as it is.

Mr. JONES. But the way the law is now, the bank necessarily or for business reasons engages in the safety-deposit business itself and is therefore responsible to its customers for proper care in safeguarding such deposits.

Mr. BEEDY. This is a limitation purely on the amount that the national bank may invest in a safe-deposit company. Now, as a matter of fact, the safe-deposit company may be much stronger than the bank itself.

Mr. JONES. Yes; but again it may not be. What supervision is the banking department going to make of it?

Mr. BEEDY. It will have all the supervision that the banks have.

Mr. JONES. Under this provision could not a $25,000 corporation or a $100,000 corporation accept a million-dollar deposit without any supervision?

Mr. BEEDY. All investments are supervised by the bank examiners.

Mr. JONES. They supervise all banking institutions, but this is not a banking institution. It is a safe-deposit corporation.

Mr. BEEDY. It is regulated by the same law. We can not undertake to legislate for the States, but we can put a limitation on here for the protection of the public as to what a national bank may invest in such a State corporation.

Mr. JONES. I am more inclined than ever to think that there might be a chance here for the public to believe that some great banking concern was conducting this business. A man might go and put his valuables in the custody of this safe-deposit company. It might be a company with a small amount of capital stock, and there would be no practical protection for the depositor at all.

Mr. BEEDY. Just in what way does the gentleman assume that the public is in any way to be deceived as to what this deposit company is, or who controls it?

Mr. JONES. The gentleman knows that the public is not going to go into a bank and say, "Do you people own this safe-deposit company?" when anyone wants to rent a box. The average citizen would naturally think that that institution was being run by the bank itself, when, as a matter of fact, you are legalizing a side corporation to do it, for which the bank would not in any event be responsible to the extent of more than 15 per cent of the capital stock of the corporation, and maybe not at all.

Mr. WILLIAMS of Michigan. Mr. Chairman, will the gentleman yield?

Mr. JONES. Yes.

Mr. WILLIAMS of Michigan. I assume that the primary purpose of a national bank or any other bank is the protection of its depositors?

Mr. JONES. Yes.

Mr. WILLIAMS of Michigan. Now, if you allow a bank to maintain safe deposits of this character and put the entire institution back of it, you put a man who deposits Government bonds in your box, rented by himself, on the same basis and give him the same protection as you give the depositor. He is not entitled to that protection.

Mr. JONES. If the bank is doing the business itself, it will have burglary insurance and fire insurance, and in that way secure proper protection. But if some little side corporation is doing it, there is no provision for safety to the public.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. JONES. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WILLIAMSON. Mr. Chairman, will the gentleman yield?

Mr. JONES. I want to proceed a minute first.

Mr. Chairman and gentlemen, this is a very important proposition. For many years, all over this country, the national banks and State banks have been conducting and maintaining a safety-deposit business.

The general public believes, and it is entitled to believe, that the bank is responsible to the public for the usual degree of care in taking care of valuables that are placed there. Under this provision of the law the regulations of a national bank or any other bank may suggest to somebody on the outside, "You go and form a safety-deposit company." The banker might say, "We will take one-half of 1 per cent of $25,000 capital stock, or we will take $100 of stock, and you can conduct business at the back of our institution, and all the customers of our bank that come in here will naturally call for those boxes." That corporation can be organized under ordinary corporation laws, without banking supervision, and may have only $25,000 capital stock, and yet may have a million dollars' worth of valuables in its vaults. Then if it is not properly supervised, that company may be looted either from the inside or from the outside, and the public would have little or no protection.

What is the reason for all that? I would like to have some expert on the Committee on Banking and Currency, instead of trying to soften the thing down, explain how the public can be protected in such a case.

Mr. WILLIAMS of Michigan. What liability would attach to a bank operating a safety-deposit business if the bank exercised ordinary care and a burglar should break in?

Mr. JONES. They must exercise the degree of care ordinarily exercised in such cases; and if they fail to do so, are liable.

Mr. WILLIAMS of Michigan. Wait a minute.

Mr. JONES. The law says they must exercise ordinary care, and if they are guilty of negligence they are responsible to the public; and with that degree of responsibility upon them they will exercise more care than if they are allowed to shunt off the responsibility to a side corporation. Why do they want to escape that responsibility?

Mr. WILLIAMS of Michigan. I can not tell you that.

Mr. JONES. They want to get the benefits of appearing to take care of the people's valuables, and to deny the responsibility for the safe-keeping of the valuables.

Mr. WILLIAMS of Michigan. The only claim that one would have against a bank would be for ordinary care.

Mr. JONES. Certainly. That is all you can have against any man or against any institution, except in the case of certain public-service corporations.

Mr. WILLIAMS of Michigan. And it would only be liable for lack of ordinary care?

Mr. JONES. Ordinary care under the circumstances—that is, the ordinary care that a banker takes of his valuables, and that is a good deal of care. I think we will all agree that the average banker is reasonably careful. That is the standard of measurement. The average banker exercises a great deal of care. And he is responsible for any loss that occurs when he fails to exercise the care that the average banker would exercise under the same or similar circumstances.

Mr. BURTNESS. And that is the care of a bailee for hire, is it not?

Mr. JONES. Yes.

Mr. BURTNESS. And can there be any purpose of this amendment except that of trying to save the assets of a bank from being responsible for that degree of care?

Mr. JONES. That is the only purpose. I want to say this: This discussion has been going on here for some 20 minutes, and yet not a single member of this great Banking and Currency Committee has offered a single reason for the adoption of the article as contained in the bill. [Applause.]

The CHAIRMAN. The time of the gentleman has again expired.

Mr. STEVENSON. Mr. Chairman, I think the Banking and Currency Committee was of the opinion that the language of the bill was sufficiently plain that it did not need any reasons to be offered for it.

Now, what is the situation? National banks can only do those things which they are authorized to do by legislation. The habit has grown up of banks furnishing safe-deposit facilities for their customers, and that habit has grown up from the demand of their customers and of the public that they provide safe-deposit facilities for their customers who desire to deposit valuables and other things in the custody of the bank. The question has arisen as to whether a bank has the right to do that and has the right to charge for that purpose and for that service. The provision in the bill provides that any such association—

May engage in the business commonly known as safe-deposit business either by leasing receptacles on its premises or by owning stock in a corporation.

In order that they may provide such facilities without question and have the right to charge, and no man raise a question about it, you have got to pass that much of it or you raise a question as to whether they have the right to charge anybody for putting anything in their custody and in their vaults. That is one of the reasons for which the gentleman asks. Now, I will give him another.

Mr. JONES. Will the gentleman yield?

Mr. STEVENSON. Yes.

Mr. JONES. I want to ask the gentleman whether he would be willing to agree to strike out the remaining portion?

Mr. STEVENSON. I am not willing to agree to anything. The committee has reported this bill and I stand for the bill as it is, and I have no right to agree to anything.

Mr. JONES. I want the gentleman's reason for the remaining part of it. That is the reason I want.

Mr. STEVENSON. I will give the reason.

Mr. DEMPSEY. Will the gentleman yield?

Mr. STEVENSON. Yes.

Mr. DEMPSEY. As I understand the proposition, the sole objection to the provision they seek to strike out is that customers may be misled. Now, if customers are purposely misled, and if a bank does not advertise that it is a receiving company there can not be any doubt that such a bank would be liable for misleading its customers. Is not that true?

Mr. STEVENSON. To be sure. Now, this is the proposition about the other portion. A bank has to have a trust officer frequently for many things, and it is much better and much safer for the customers of the bank, for whom the bank is trustee for the safety of their deposits and safety of their investments, that they sever the two classes of business and set up on separate from the other. Oh, you say, people will not know the difference. Well, now, you are attributing a degree of ignorance to the average man who has something of value to deposit in a safe deposit box that he will not thank you for. The people who have valuables and deposit them in vaults of banks have about as much sense as the average Congressman and probably know more about that particular subject than most of us know. But we can not become guardians for everybody. The proposition here is to allow them to establish a corporation and advertise to the world that they have certain responsible officers who will hold the property which is deposited with them. If you do not want to risk that kind of a depository put it somewhere else, but this is what the public will do: It will do as it pleases about that. So this is entirely a bugaboo.

There is practically no danger of anybody being so misled as to be prejudiced in their rights. If a bank willfully misleads somebody to put their stuff in the bank and says the bank is responsible, then in such case the bank is responsible. But you must remember that these vaults are open to the public and that there are many people who will claim to have put things in there that they did not put in; they come back and annoy and harass the bank, claiming to have put something in there which they did not put in. I have known that thing to happen, and sometimes they go home and find it in the bottom of the clock or stuck away in a bureau drawer or somewhere else. It relieves the bank from being harassed, and the assets of the bank, which are primarily trust funds for the depositors. When you go to a bank to make a deposit you must have the actual cash and have it counted when it is deposited. A bank is harassed and its assets, which are held in trust, are endangered when somebody claims to have taken something there and says it was gold when probably it was salt or sugar.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. LOZIER. Mr. Chairman and gentlemen, section 15 of the bill we are considering seeks to amend section 13 of the Federal reserve act by adding at the end thereof a new paragraph to read as follows:

That in addition to the powers now vested by law in national banking associations organized under the laws of the United States any such associations may engage in the business commonly known as safe-deposit business either by leasing receptacles on its premises or by owning stock in a corporation organized under the law of any State to conduct a safe-deposit business located on or adjacent to the premises of such association: *Provided, however,* That the amount invested in the capital stock of any such safe deposit corporation by such association shall not exceed 15 per cent of the capital stock of such association actually paid in and unimpaired and 15 per cent of its unimpaired surplus.

I favor such amendment of the existing law as may be necessary to give to national banks authority to engage in safe-deposit business, but I believe that this section goes entirely too far and will be productive of mischief. Now, under the present law there has always been a doubt as to whether or not national banks were authorized to conduct the business commonly known as safe-deposit business. Of course, we know that national banks have been to a limited extent carrying on safe-deposit business in connection with and as an incident of their general banking business. This has not been done under any express statutory provision but as an implied power reasonably necessary for the efficient and profitable management of the business of national banks. I am sure that there is no reason and no principle of sound public policy that prevents national banks from conducting business of this character, and it is entirely proper that the Federal laws under which national banks operate should expressly authorize national banks to engage in this line of business which is incidental to their activities as commercial banking concerns.

To this end I believe the first four lines of the proposed amendment will adequately remedy the situation. These lines are as follows:

That in addition to the powers now vested by law in national banking associations, organized under the laws of the United States, any such associations may engage in the business commonly known as safe-deposit business.

I think this authorization should end there and the remaining portions of the proposed section should be discarded. I am reluctant to believe that this section has been given the consideration it deserves, and I am convinced that the adoption of the section as reported by the committee will be a serious mistake.

This section permits the directors of national banks to take 15 per cent of the capital stock of the bank actually paid in and unimpaired and 15 per cent of the unimpaired surplus of the bank and invest it in an outside corporation organized to conduct a safe-deposit business. Bear in mind that this very considerable portion of the bank's assets are withdrawn from the control and immediate supervision of the directors of the bank and are invested in an independent corporation in which the bank may be a minority stockholder, and in the management and operation of which safe-deposit company the directors of the national bank may have no part. To illustrate: In the case of a national bank with a paid-up capital of $100,000 and a surplus of $100,000, under the provisions of the proposed amendment $30,000 of the bank's assets could be withdrawn from the control and management of the bank directors and permanently invested in the stock of a corporation with the control and management of which the directors and officers of the national bank would have no part, or at least not a controlling voice. Obviously this would "bottle up" or impound $30,000 of the liquid assets of the national bank, thereby and to that extent reducing the funds available to carry on the purely banking activities of the bank. It will be observed that this very dignified portion of the bank's assets are to be invested in a corporation organized under the law of the State in which such national bank may be located. This safe-deposit corporation, being the creature of the State, will be regulated and controlled by State laws and will not in any degree or to any extent be subject to our national banking laws, or to any law enacted by our Federal Government. Few national banks in county-seat towns have a capital in excess of $100,000.

Thus we would have the anomalous situation which permits a national bank, the creature of Federal laws, to invest a very substantial part of its assets in a corporation, the creature of a State law, and the operation of which is exclusively controlled by State laws. There are no limitations or safeguards thrown around the investment of these national-bank assets in a State corporation, and when once invested they become and remain subject to such State laws. In all such corporations the management rests with those who control a majority of the capital stock, and the rights of the minority stockholders are determined and circumscribed by State laws.

It is quite probable that in a majority of cases the national bank would be a minority stockholder in the safe-deposit corporation, and minority stockholders as a rule occupy a very unenviable position, because of their inability to protect themselves or to have a voice in the management of the corporation.

Mr. STEVENSON. Will the gentleman yield?

Mr. LOZIER. Certainly.

Mr. STEVENSON. Is there anything in here which says the bank will be a minority stockholder?

Mr. LOZIER. No; nor is there anything in this bill which requires that the bank's investment shall be of a sum sufficient to enable them to control a majority of the capital stock. As

to whether or not the bank is a majority or minority stockholder in the safe-deposit corporation depends, of course, upon the capital stock of the corporation and the amount of capital stock subscribed by the bank. This act permits the bank to invest 15 per cent of its combined unimpaired capital and surplus. This investment by the bank may or may not be sufficient to give the bank control of the safe-deposit corporation.

Mr. McFADDEN. Will the gentleman yield?

Mr. LOZIER. Certainly.

Mr. McFADDEN. Can the gentleman imagine in his wildest moments that a bank with $100,000 capital would set aside $15,000 of their capital for a safe-deposit business in a country town? I can not.

Mr. LOZIER. That may not be probable, but it is not inconceivable, and if this bill becomes a law I have no doubt that there will be numerous instances where national banks will do this very thing, especially if the management of the banks should not be wise or conservative, and the distinguished gentleman from Pennsylvania will not deny that very frequently banks are mismanaged and do many things inconsistent with sound banking practices. Quite frequently the officers of a bank are tempted to organize subsidiary companies or corporations in order to provide salaries and positions for relatives and friends, and often these associate companies and subsidiary corporations are unprofitable and ultimately end in insolvency and loss to all concerned. This provision is an invitation to national banks to divide up their assets and invest a substantial portion thereof in a highly speculative venture, with the management and operation of which they may have no voice.

Mr. WILLIAMSON. Will the gentleman yield?

Mr. LOZIER. I yield.

Mr. WILLIAMSON. The gentleman is perfectly familiar, I assume, with the fact that national banks have now gone into the safe-deposit business without any authority of law. What responsibility does the bank now owe to those who have their papers and other documents in the bank? And what liability do they owe to a business man who deals with them in that way?

Mr. LOZIER. I am quite familiar with the fact that national banks have already, to a certain extent, gone into the safe-deposit business without any express authority of law, but I am not prepared to deny that national banks under existing laws have authority, by implication, to engage in the safe-deposit business directly for their depositors. While there has been no authoritative adjudication of this question, national banks and the Government have evidently proceeded upon the theory that national banks, as an incident to their general banking business, could within reasonable limits engage in the safe-deposit business. As to their legal liability to their customers for papers and other documents, I will say that if they make no charge for the safe-deposit service, they are, under the law of bailments, bailees for accommodation, and are therefore only liable for ordinary care. If, on the other hand, the bank charges a fee for the safe-deposit service, it becomes a bailee for hire, and a high degree of care is required of the bank, and its liability is correspondingly increased.

It serves no good purpose at this time to debate the academic question as to whether or not national banks are authorized under existing law to engage in the safe-deposit business. The important question, and the only question, is, What is going to be the effect of this section?

Of course, we understand that the ordinary national bank in county-seat towns and in smaller cities maintain safe-deposit boxes, and ordinarily the bank's customers are given the use of these boxes without charge. This is an accommodation service, and at most imposes on the bank no greater duty than to exercise ordinary care in the custody of the contents of these safe-deposit boxes. Only in exceptional cases are safe-deposit companies organized in county-seat or country towns. But in cities the safe-deposit business has assumed great proportion, and safe-deposit corporations are frequently organized without having any fiscal relationship to banks, and multitudes of people transact their business with these safe-deposit companies, never thinking or caring whether or not they have any relations with any bank. In other words, in the cities the safe-deposit business is an independent activity, not necessarily connected with banking business, and many people have business with a safe-deposit company that never have any business with banks.

Now, the investment by a bank of 15 per cent of its unimpaired capital and surplus may or may not be a profitable venture; and if the bank does not control a majority of the stock of the safe-deposit corporation, thereby giving the bank control and supervision over the operation of the safe-deposit company, very frequently the investment would prove unprofitable and this large proportion of the bank's assets are liable to be lost.

Mr. WILLIAMSON. Will the gentleman yield further?

Mr. LOZIER. Certainly.

Mr. WILLIAMSON. Does not the gentleman think that if a bank has invested in a safe-deposit-vault corporation to the extent of 15 per cent of its capital stock it will take more care to see that the corporation is properly conducted than if it had no interest in it at all? This is a safeguard for the depositor.

Mr. LOZIER. How can the bank see that the safe-deposit corporation is properly conducted if the bank is only a minority stockholder in the safe-deposit concern? Only in cases where the bank invests a sum sufficient to give it a majority of the stock and a controlling interest in the corporation can it, in the language of the gentleman, "see that the corporation is properly conducted." Even if the bank has a controlling interest in the safe-deposit corporation, it is not probable that the officers of the bank could exercise efficient supervision over the activities of the safe-deposit corporation. It would seem to me that the officers and directors of the bank would find all their time employed, and more profitably employed, if they give all of their attention to the affairs of the bank proper.

Officers of national banks, in theory at least, are expected to give unremitting attention to the business of the bank. If the officers of the bank should attempt to give personal supervision to the affairs of the safe-deposit corporation, such oversight would in all probability be at the expense of the bank. A large proportion of bank failures result from the failure of the officers of the bank to give all their attention to the affairs of the bank, resulting in the neglect of important matters vitally affecting the welfare of the bank. One who was wiser than the gentleman from South Dakota, in the long ago, stated the inflexible law of service when he said, "No man can serve two masters," and that is true in the banking and business world as well as in every other department of human activity.

I believe that national banks, in engaging in the safe-deposit business, should confine their operations and activities to their own corporations and should not become stockholders in independent corporations organized under State laws and directed by an independent board of directors. National banks are primarily commercial banks and intended to engage in purely banking business. This act will weaken and not strengthen national banks. When you authorize the directors of a national bank to withdraw from the custody and control of the directors of the bank 15 per cent of its unimpaired capital stock and surplus and yield up the control of this fund to an independent corporation, created by State laws and regulated by State laws, you impair the assets of the bank to the extent of the sum invested in such subsidiary or independent corporation.

I therefore favor the first part of the proposed section, which reads as follows:

> That in addition to the powers now vested by law in national banking associations organized under the laws of the United States any such associations may engage in the business commonly known as safe-deposit business.

I favor striking out the remainder of the proposed amendment. It is unwise, in my opinion, to segregate 15 per cent of the unimpaired capital and surplus of national banks and permit the investment of such funds in independent safe-deposit corporations organized under, amenable to, and regulated by State laws, and in the management and control of which the officers and directors of the national banks may have but little or no part.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. GREEN. Mr. Chairman, I move to strike out the last word.

I think the gentleman from Missouri [Mr. LOZIER] has entirely misread the provision concerning which he has been talking. The provision is—

> *Provided, however,* That the amount invested in the capital stock of any such safe-deposit corporation by such association shall not exceed 15 per cent of the capital stock of such association.

This refers back to the deposit corporation.

Mr. STEVENSON. Oh, no; it refers to the bank.

Mr. BURTNESS. No; the chairman of the committee will not claim that.

Mr. GREEN. Then you have the grammar of the provision wrong. You have something in your provision that you do not intend. The language is—

the capital stock of any such safe-deposit corporation by such association.

Mr. BURTNESS. The association is the national bank.

Mr. LOZIER. Will the gentleman permit me to answer?

Mr. GREEN. Yes.

Mr. LOZIER. The distinguished gentleman from Iowa [Mr. GREEN] misconstrues and misinterprets the proposed amendment. My colleagues, the gentleman from South Carolina [Mr. STEVENSON] and the gentleman from North Dakota [Mr. BURTNESS], have, in answer to the gentleman from Iowa, construed this provision identically as I have construed it. In my opinion, the provision is subject to but one interpretation, and that is the interpretation I have given it and which has been sanctioned by the distinguished gentlemen from South Carolina and North Dakota. It will be observed that two kinds of organizations are mentioned in this section—associations and corporations. The associations, as expressly stated in the first part of the section, are "national banking associations organized under the laws of the United States," while the latter part of the section refers to "a corporation organized under the law of any State to conduct a safe-deposit business." Now, this section authorizes "such associations"—that is, national banking associations—to invest not to exceed 15 per cent of the combined unimpaired capital and surplus "of such association"—that is, such national bank association—in "a corporation organized under the law of the State to conduct a safe-deposit business."

The gentleman from Iowa erroneously construes the section as meaning that 15 per cent of the capital stock of the safe deposit company may be subscribed by the bank while as a matter of fact the section expressly provides that the amount a bank may invest in a safe deposit company shall be limited to 15 per cent of the capital stock of the national bank, and not 15 per cent of the capital stock of the safe deposit company. In this section national banks are referred to as "associations," and the safe deposit company is referred to as "a corporation."

Mr. GREEN. It refers to something in a different paragraph?

Mr. LOZIER. No; the same paragraph. This paragraph is complete in itself and no reference is made herein to any other paragraph. The very capable and distinguished gentleman from Iowa, an exceedingly valuable Member of this House, seldom misinterprets the English language. But in this case I am sure he will, on reflection, construe this section as I have construed it and as my colleagues from South Carolina and North Dakota have construed it; and I do not believe that the language is susceptible of any construction other than the one I have given it.

Mr. GREEN. I do not believe they have it the way they intended it.

Mr. McKEOWN. Mr. Chairman, I move to strike out the last two words.

Gentlemen, I want to call your attention to the fact that I do not believe you realize the seriousness of the proposition of permitting banks to have these safe-deposit boxes without some control by the Congress. You are not realizing the seriousness of it because I know this House does not want to do something that works an injustice on the citizen. Here is what takes place now: The national banks all over the country out in the small towns fix up a few safe-deposit boxes which they provide for the use of their customers. As a rule they do not charge their customers for the use of them, although some of them do. The reason we ought to authorize them to engage in this business and to charge for lock boxes is because the demand has become so great in these small towns all over the country and the burden has become so great that the bank ought to have the right to charge a small, reasonable fee, for this reason. The courts hold that if they accept the valuables of any depositor in their vaults, and they have no authority under the national law, the person who puts his valuables in that vault can hold the bank because of the fact it is not authorized by law to receive them. We ought to pass a law to authorize them to collect for these boxes.

Now, let me tell you what actually takes place when a receiver is appointed. Here is a man, a customer of the bank, who puts his papers, his deeds and notes, and other valuable securities in the deposit box. A receiver is appointed for the bank. What does he do? He tells Mr. A that he can not get into the box at all. A man having notes to collect can not get them to collect. You are authorizing them to go into the safety-deposit business and you ought to go further and say that the receiver shall be compelled to go to the court and impound the papers there. Mr. A comes around, and they must detail a clerk to go with him and see when he opens the box, because if they do not detail the clerk whose salary they have to pay, it may turn out that Mrs. J says that she had a valuable necklace in there and when she came back it was gone.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. JONES. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES: Page 21, line 1, after the word "premises" strike out the remainder of the paragraph, and in line 1 strike out the word "either," and add after the word "premises" the words "or adjacent thereto."

Mr. JONES. Mr. Chairman, I have listened to this debate——

Mr. WILLIAMSON. Mr. Chairman, is there not an amendment pending to strike out the whole section? The amendment of the gentleman from Texas is seeking to amend it.

The CHAIRMAN. Under the rules a perfecting amendment must first be considered and disposed of before an amendment striking out the whole section is disposed of.

Mr. McFADDEN. Mr. Chairman, we have been very liberal in this matter and I would like to see if we can not agree upon a time to close debate. I ask unanimous consent that all debate on this section and all amendments thereto be closed in seven minutes.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that all debate on the section and amendments thereto close in seven minutes. Is there objection?

There was no objection.

Mr. JONES. Mr. Chairman, I have listened all through the debate for a reason from the Banking and Currency Committee for this provision. I think they should be able to give some reason or the amendment should be adopted. My friend, the gentleman from South Carolina [Mr. STEVENSON], came down the aisle like a rip-snorting fire engine, and I thought he was going to run right over me, but all he attempted to do was to justify the first part of the paragraph. Nobody objects to that. But he says banks can not do this safety-deposit business without authority. Whether or not they have authority to do such business they are doing it all over the country. Now, in order that I may comply with the only objection offered by the committee, I offer an amendment granting the power to establish this safety-deposit business on their own premises or premises adjacent thereto. If it is adopted there is nothing to keep a separate corporation from doing business, but they can not do the business in the name of the bank. If the banks do not want the business what do they want authority to do it for? If they do want the business why do they want the privilege of doing business under an assumed name?

That is what this would give them authority to do if they want to do so. They may take not to exceed 15 per cent of the capital stock of this little subsidiary. That means they may take one-tenth of 1 per cent of the capital stock and instead of having the First National Bank of Squan Creek, they may organize a little corporation to be known as the First National Bank of Squan Creek Safety Deposit Co. And yet the public would probably think the bank was running the entire business of both concerns.

I do not claim to be a banking expert, but I would like to have some member of the Banking and Currency Committee give me one reason why a national bank should want to organize a separate corporation.

Mr. McFADDEN. Will the gentleman yield?

Mr. JONES. Yes.

Mr. McFADDEN. All it does is to legalize what the national banks are doing without authority of law. Many of the large banks now in the city have had these safety deposit boxes and have organized.

Mr. JONES. Why do they want it?

Mr. McFADDEN. Because the business is so large that it necessitates a separate organization.

Mr. JONES. I thought the bill was to enable them to build up bigger banks. As a matter of fact that is no reason at all. The ambition of every bank is to be a bigger bank and do a bigger business, and I have never heard of a bank getting so big it could not operate.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. McFADDEN. Mr. Chairman, in the two minutes I have I would like to point out that this section had very careful consideration. We are trying to legalize that which national banks are now doing, and have been doing for some time past, in an illegal manner. The public demands, particularly on small country banks, an opportunity to use their facilities for

the safe-keeping of papers. It is common practice in the small banks for a customer to go in and ask the banker to care for an envelope in which he may have Liberty bonds or securities or some other valuable papers. And so the banks have grown into a safe-deposit business. In the past few years many banks have put in safety-deposit boxes which has been of some expense to the bank. A service charge should be made. They have gone into it in that way and they should have legal authority for it. In the cities where safe-deposit business is carried on, on a large scale, it is necessary for them to have separate vaults and departments for that. If this section be stricken out it will deprive the national banks of the country of any right to own stock in these safe-deposit companies.

Mr. JONES. Mr. Chairman, will the gentleman yield?

Mr. McFADDEN. I have only two minutes and I have not the time. This affords a safety to depositors of the banks, in my judgment. The gentleman argues that if they establish a separate institution and it is managed by the bank, the bank will hoodwink the public and mismanage the institution and steal the public's property. That is an asinine suggestion. Nothing like that would ever occur, but I think the depositors of these organizations are interested to see that the bank does not assume some liability that it should not assume under the present procedure.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired. The question is on the amendment offered by the gentleman from Texas.

Mr. BURTNESS. Mr. Chairman, may we have the Jones amendment again reported?

The CHAIRMAN. Without objection, the Clerk will again report the Jones amendment.

There was no objection, and the amendment was again reported.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The question now recurs upon the amendment offered by the gentleman from North Dakota to strike out the section.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 16. That section 22 of the Federal reserve act, subsection (a), paragraph 2 thereof, be amended to read as follows:

"(a) No member bank and no officer, director, or employee thereof shall hereafter make any loan or grant any gratuity to any bank examiner. Any bank officer, director, or employee violating this provision shall be deemed guilty of a misdemeanor and shall be imprisoned not exceeding one year, or fined not more than $5,000, or both, and may be fined a further sum equal to the money so loaned or gratuity given.

"Any examiner or assistant examiner who shall accept a loan or gratuity from any bank examined by him, or from an officer, director, or employee thereof, or who shall steal, or unlawfully take, or unlawfully conceal any money, note, draft, bond, or security or any other property of value in the possession of any member bank or from any safe-deposit box in or adjacent to the premises of such bank, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof in any district court of the United States, be imprisoned for not exceeding one year, or fined not more than $5,000, or both, and may be fined a further sum equal to the money so loaned, gratuity given, or property stolen, and shall forever thereafter be disqualified from holding office as a national-bank examiner."

AMENDMENT TO PROHIBIT DIRECTORS OF FEDERAL RESERVE BANKS FROM SUCCEEDING THEMSELVES UNTIL EXPIRATION OF THREE YEARS FROM LAST SERVICE

Mr. AYRES. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. AYRES: Page 22, line 9, after the word "examiner," insert the following as a new section to be numbered section 16a:

"That section 4 of the Federal reserve act, in the paragraph relating to the choosing of directors, be amended and reenacted so as to read as follows:

"'At the first meeting of the full board of directors of each Federal reserve bank it shall be the duty of the directors of classes A, B, and C, respectively, to designate one of the members of each class whose term of office shall expire in one year from the 1st of January nearest to date of such meeting, one whose term of office shall expire at the end of two years from said date, and one whose term of office shall expire at the end of three years from said date. Thereafter every director of a Federal reserve bank chosen as hereinbefore provided shall hold office for a term of three years; and neither shall any director be appointed to succeed himself nor again appointed to such office within a period of three years from the date of expiration of a term or part thereof by him served. Vacancies that may occur in the several classes of directors of Federal reserve banks may be filled in the manner provided for the original selection of such directors, such appointees to hold office for the unexpired terms of their predecessors.'"

Mr. BEEDY. Mr. Chairman, I make the point of order that the amendment is not germane.

The CHAIRMAN. Does the gentleman from Kansas desire to be heard on this point of order?

Mr. AYRES. I think not, Mr. Chairman. I appreciate the fact that under the recent ruling of the Chair, the Chair holds that an amendment of this kind offered to the bill is not germane because of the fact that it does not go to any particular section in the bill that is pending. I do not care to argue the point of order for that reason.

The CHAIRMAN. The point of order is sustained.

Mr. AYRES. While I am not at all in accord with the ruling of the Chair, I appreciate it is the court of last resort on this question, and I must submit for the time. This proposed amendment was introduced by me as a bill on December 13 and is now pending before the Committee on Banking and Currency, and I hope will be considered by that committee some time this session. If not, I shall certainly reintroduce it in the next Congress and keep on until some measure of the kind is passed to protect the banker desiring to do a banking business and not have to be intimidated by directors of these Federal reserve banks every so often soliciting reelection as directors.

I do not contend that all directors of Federal reserve banks are guilty of this offense, for it is an offense; but enough of them are to make it very embarrassing to certain bankers in several of the Federal reserve districts throughout the country. If these directors can continue in office by such methods, it means a financial oligarchy; and such is the case now to a very great extent in some districts. This bill is to put a stop to such methods.

Evidence can be produced from more than one Federal reserve district where the officers and directors have themselves reelected, and thus can, if they have not already done so, form combinations against certain localities in their districts. You understand, of course, this is not openly charged by bankers in such localities, because it might not be best for them to do so.

Permit me to say unless some measure of this kind is adopted, and that before long, a more drastic measure will be—probably to make it unlawful for a director either, directly or indirectly to solicit reelection or reappointment, and providing a penalty for so doing. It should not be necessary to go to this extreme.

It is contrary to the intent and spirit of the Federal reserve act for a set of directors to perpetuate themselves in office. This is being done through influence with member banks; they are able to dictate their reelection. I have seen letters sent out by these directors soliciting their reelection as directors and also letters sent out by their friends for the same purpose. When a bank receives such letters its officers hesitate to say no.

It may be for the best interests of the Federal reserve banking system to have the active officers in such banks, so long as they are competent, succeed themselves, but it is a mistake for the directors in these banks constantly to reelect themselves.

There are many reasons in addition to those I have already given why this should be prohibited, and in view of the fact it is embarrassing for the member banks to adopt this rule, I feel it is the duty of Congress to amend the act so as to make it prohibitive by law. In some districts, I am informed, these directors, or some of them, spend almost as much time in perpetuating themselves and their friends in office as they do in managing the affairs of the banks. It must be apparent to all who have given this question consideration that the continuation of the same directors in the Federal reserve banks from year to year is sure to bring about evil results, for as I have said, it creates a financial oligarchy.

All of these directors, that is in all three classes, are chosen for three years, and that is long enough for one period. This amendment simply provides when he has served in the capacity of a director he is ineligible to be selected again to act until three years have expired since last serving. There is nothing unfair or unreasonable about such a provision, and I can not see where anyone can make objection to it unless it is because of his uncontrollable desire to be perpetuated in office.

Mr. HILL of Maryland. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. HILL of Maryland: Page 21, line 10, strike out all of section 16.

Mr. HILL of Maryland. Mr. Chairman, section 16 as it now exists in the Federal reserve act makes it a Federal offense for any bank officer or examiner to be connected with bribery or anything of that sort. That is a survival from and application to the Federal reserve system of the days when national banks were considered to be exclusively under the jurisdiction of the Federal Government, and in so extending the Federal criminal law to purely State institutions on the ground that they were in the Federal reserve system, there was a questionable extension of the Federal criminal jurisdiction; but in this pending amendment to the national reserve act there is another extension of Federal criminal jurisdiction which is not even questionable, but is so purely a State police matter that I think the committee should very carefully consider before it adopts it.

Paragraph 16 contains in the proposed amendment these additional words:

or who shall steal or unlawfully conceal any money, notes, drafts, bonds, or security or any other property of value in the possession of any member bank or from any safe-deposit box in or adjacent to the premises of such bank.

I can best give a summary of the effect of the amendment proposed to section 22 by section 16 of this bill by the report of the committee itself. In respect to section 16 the committee says in its report:

This section amends section 22 of the Federal reserve act by making it a crime punishable under Federal statutes for an examiner or assistant examiner to steal from a member bank.

Section 16 is as follows:

SEC. 16. That section 22 of the Federal reserve act, subsection (a), paragraph 2 thereof, be amended to read as follows:

"(a) No member bank and no officer, director, or employee thereof shall hereafter make any loan or grant any gratuity to any bank examiner. Any bank officer, director, or employee violating this provision shall be deemed guilty of a misdemeanor and shall be imprisoned not exceeding one year, or fined not more than $5,000, or both, and may be fined a further sum equal to the money so loaned or gratuity given.

"Any examiner or assistant examiner who shall accept a loan or gratuity from any bank examined by him, or from an officer, director, or employee thereof, or who shall steal, or unlawfully take, or unlawfully conceal any money, note, draft, bond, or security or any other property of value in the possession of any member bank or from any safe-deposit box in or adjacent to the premises of such bank, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof in any district court of the United States, be imprisoned for not exceeding one year, or fined not more than $5,000, or both, and may be fined a further sum equal to the money so loaned, gratuity given, or property stolen, and shall forever thereafter be disqualified from holding office as a national bank examiner."

That creates a new Federal crime. It creates a very peculiar Federal crime. It creates a crime by which if a bank examiner or an assistant examiner is in a bank and steals money he goes into the Federal district court, but if the cashier of a bank steals money adjacent to that money which was stolen by the bank examiner, or if he joins the examiner as a conspirator in stealing it he is tried in the State court. It seems to me there is no more reason for making it a crime applicable only to a bank examiner or an assistant bank examiner than there is for making it a crime for anyone to steal from a bank which is under the jurisdiction of the reserve system.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. HILL of Maryland. Mr. Chairman, I ask unanimous consent to proceed for two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HILL of Maryland. Now, gentlemen, this section 16 is very much of the same type as section 17, and unless a member of the committee does so, I shall move to strike out also section 17 when we reach it. The only reason I bring it to your consideration is on a question of ordinary and orderly State and Federal criminal procedure.

At the present time there are certain offenses against the United States banking laws which are offenses against the Federal Government and which are properly handled by the Department of Justice and by its local United States district attorneys. But there is not any more reason for making theft from a State bank, which is under the jurisdiction of the Federal reserve system, a Federal crime than there is making ordinary stealing from any bank, and if you are going to make it a Federal crime to steal from a State bank do not confine it merely to a bank examiner, but take in the other officers of the bank. I do not think that the Federal Penal Code should be extended, however, to any theft. The State laws amply punish what is a purely local crime, and there should be no extension of the Federal penal system to any crimes that are not offenses against the peace and dignity of the United States itself as a government. [Applause.]

Mr. STEVENSON. Mr. Chairman, the very closing remarks of the gentleman from Maryland [Mr. HILL] justifies the amendment. Now, what is this amendment? Suppose the gentleman's amendment prevails. We would still have the law as it stands to-day, except the language which we are putting in here in addition, and the gentleman objects, I believe, to that law.

Mr. HILL of Maryland. I do not object to the existing law. The existing law does not deal with stealing.

Mr. STEVENSON. Well, it deals with the next thing to it.

Mr. HILL of Maryland. Not with stealing.

Mr. STEVENSON. Well, worse than that——

Mr. HILL of Maryland. It might just as well deal with murder.

Mr. STEVENSON. That is one of the things we desire to correct. Now, if the gentleman will permit, I want to undertake to state what this does. The gentleman says we ought not to make this law because stealing from a Federal bank is not different from stealing anywhere else, and therefore we invade the region of larceny. Let us look at this for a minute. That which is added here makes it a Federal offense for any bank examiner to steal from the bank that he is examining. Occasions have occurred where bank examiners with access to and control for hours and sometimes days of all the valuable assets of the bank have taken and misappropriated valuable securities, and when indicted there is no Federal law with which to indict them, and we had to rely on just such procedure as you would get in the State courts. Now, the reason for making an exception and putting bank examiners' stealing under the Federal statute is that the bank examiner is a Federal officer and he is put in a position where he can steal without let or hindrance from any bank he is called upon to examine, and therefore the same law which says to the bank, "You have got to put him in control of all the assets of the bank; you have got to give him access to the vault; give him absolute control while examining," says that "if he steals anything, we will put him in Uncle Sam's court and put him in a Federal penitentiary for doing it," and that is all that this does.

Mr. DEMPSEY. Will the gentleman yield?

Mr. STEVENSON. I will.

Mr. DEMPSEY. Does not this simply give concurrent jurisdiction to the State courts and Federal courts, and is it not well to have the opportunity and the right to go into either court which the prosecutor may find best suited to punish him if he is guilty of the crime?

Mr. STEVENSON. This gives concurrent jurisdiction to the Federal court and does not deprive the State court of jurisdiction.

Mr. HILL of Maryland. Will the gentleman yield?

Mr. STEVENSON. Not now. I will call attention to this fact, that after the bank turns over to the examiner the assets of the bank they are in his possession and it is not ordinary larceny when he takes it because there is no taking from the possession of the bank, and you have difficulty when you get into the State court, and we propose right here and now to fix the law where he can not take the assets of a bank and get out of it by a technicality.

Mr. HILL of Maryland. Will the gentleman yield to one question along that line?

Mr. STEVENSON. All right.

Mr. HILL of Maryland. The gentleman is a very experienced lawyer and I will submit this question to him, that the passage of this amendment if it deals with something else other than ordinary stealing makes exclusive the jurisdiction of the Federal courts and takes away the jurisdiction of the State court because it is an ordinary principle of constitutional law that where the United States takes jurisdiction it ousts the State court. Now, I will say to the gentleman we had this matter up——

Mr. STEVENSON. I heard the gentleman's statement and I do not propose to pause to enable him to make a speech as I have only a minute or two. I do not care whether it is exclusive or not exclusive. You have got a provision here which covers it, that when he takes or unlawfully steals or unlawfully misappropriates anything he can be prosecuted in the United

States courts and put in the penitentiary. That is what we ought to provide, because now we say to the bank, "You have got to admit one of these men with the insignia of the United States Government on him and put him in complete control of your assets"; and if he steals we say, "We will put him in the penitentiary where Uncle Sam himself controls and he will not be subject to pardon by some easy-going governor."

Mr. LOZIER. I move to strike out the last word, for the purpose of calling attention to subdivision (a) of section 16, on page 20 of the pending bill. This is evidently a very drastic provision. By express terms it prohibits any member bank of the Federal reserve system and all officers, directors, and employees of such bank from making loans of any kind or character to a bank examiner, and prescribes a punishment by imprisonment not exceeding one year, or by fine, not more than $5,000, for the violation of this provision. In other words, it is absolutely unlawful for any State or National bank that is a member of the Federal reserve system to make a loan of any amount to a bank examiner. Bank examiners under this section are absolutely prohibited from borrowing money from a bank that is a member of the Federal reserve system. This inhibition is absolute and unconditional. It matters not how small or well secured the loan might be. It matters not what character and value of collateral is pledged to secure the loan. It makes no difference how far removed the bank may be from the territory where the examiner serves. Under this section a bank examiner could not borrow $100 from a member bank even though the examiner might be solvent and worth, over all liabilities, a million dollars. Nor could he borrow $100 from a member bank even if he should offer to pledge as security therefor $10,000 worth of Government bonds.

I recognize the danger in permitting member banks to extend favors to bank examiners, and with this policy I am in hearty accord. But I think this provision goes too far and to an unreasonable extreme, and in my opinion the interest of the public, the banks, and the Government would not suffer if there should be a slight relaxation of this rigid rule. Is it the purpose of this provision to prevent a bank examiner from getting a loan from a member bank of the Federal reserve system, State or national, no matter how solvent he may be, and without regard to the collateral he may tender as security for the loan? Is that the purpose of this provision?

Mr. STEVENSON. No; that is not the purpose of this provision. That is the law now. We are only repeating it. If the gentleman will look at section 22 (a) of the Federal law he will find that that has been the law for years.

Mr. LOZIER. I have had no occasion to examine the law with reference to this particular subject, but it seems to me that this provision is unnecessarily harsh and drastic, and its severity might be slightly relaxed and still accomplish the results sought to be obtained by this provision. I do not think that a bank should be permitted to make a loan to an examiner who has acted, or who is now acting, in the territory or regional district where the bank is located, nor do I think that an examiner should be permitted at any time or place to examine a bank from which he has at any time received favors in the nature of loans or gratuities of any kind or character, or to which bank or its owners or officers he is individually or financially obligated. But as this is not a new section, but the reenactment of a provision already in force, I shall not seek a modification of this provision.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Maryland.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 17. That section 22 of the Federal reserve act be amended by adding at the end thereof five new paragraphs to read as follows:

"(g) If two or more persons conspire to boycott, or to blacklist, or to cause a general withdrawal of deposits from, or to cause a withdrawal of patronage from, or otherwise to injure the business or good will of any national bank, or any other member bank of the Federal reserve system, and one or more of such parties do any act to affect the object of such conspiracy, each of the parties to such conspiracy shall be deemed guilty of a misdemeanor and shall, upon conviction in any court of competent jurisdiction, be fined not more than $5,000, or imprisoned for not more than five years, or both.

"(h) Whoever shall assault any person having lawful charge, control, or custody of any money, securities, funds, or other property in the possession of any member bank of the Federal reserve system with intent to rob, steal, or purloin such money, securities, funds, or other property, or any part thereof, or whoever shall rob any such person of such money, securities, funds, or property, or any part thereof, shall be imprisoned not more than 20 years; and if, in effecting or attempting to effect such robbery, he shall wound such person having custody of such money, securities, funds, or other property, or put his life in jeopardy by the use of a dangerous weapon, shall be imprisoned for not more than 25 years.

"Whoever shall break into and enter any member bank of the Federal reserve system with intent to commit a felony therein shall be imprisoned for not more than 20 years.

"(i) Whoever shall make any statement, knowing it to be false, for the purpose of obtaining for himself or for any other person, firm, corporation, or association a loan of money from any member bank of the Federal reserve system, shall be punished by a fine of not more than $5,000, or by imprisonment for not more than five years, or both.

"(j) Whoever shall conceal, dissipate, sell, or fraudulently divest himself of any personal property upon which there is a mortgage executed by him to any member bank shall be punished by a fine of not more than $5,000, or by imprisonment for not more than five years, or both."

Mr. WINGO. Mr. Chairman, I move to strike out the section.

The CHAIRMAN. The gentleman from Arkansas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. WINGO: Page 22, line 10, strike out section 17.

The CHAIRMAN. The gentleman from Arkansas is recognized.

Mr. WINGO. Mr. Chairman, I will ask the members of the committee to just take a look at section 17. It undertakes to have the Federal Government punish a conspiracy affecting the credit of a bank. That is one offense. It undertakes to have the Federal Government punish embezzlement. It undertakes to have the Federal Government punish burglary and housebreaking. It undertakes to have the Federal Government punish the ordinary offense of obtaining money under false pretenses. It undertakes to have the Federal Government punish ordinary grand larceny and moving mortgaged property.

Listen to me: I challenge you now to name a single State of the Union that has not a law punishing every one of these offenses. Can any of you name a State that does not? I go further; I challenge you to name one single State where the law against these crimes is not enforced. Stand up and answer me.

Then what do you propose to do? You propose further to invade the police powers of the State and undertake to make still further the Federal courts an ordinary criminal court, to punish the removal of mortgaged property, to punish the obtaining of goods under false pretenses, and to punish violations of all these other statutes and all those other criminal laws that are certainly peculiarly within the province of the local courts to try and punish.

Gentlemen, is it necessary? It is not necessary. You can not name a State where as a general proposition they fail to enforce these laws. Then what do you do? You pile up still further upon the administrative officers of the Government and upon the Federal courts the doing of things that by the very philosophy of our Government can be done better by local machinery.

Then what else do you do, gentlemen? By piling up this load still higher you further decrease the efficiency of the Federal machine, and you add further to the burden and the temptation to commit graft and fraud in the administration of the Federal machine.

What else do you do, gentlemen? You further dull the sense of responsibility that after all is the bedrock of our free institutions; the responsibility of the local citizens and local agencies to punish crime, to maintain law and order, and to protect human society against the ordinary criminals that threaten its destruction.

Why, gentlemen, take the prohibition law. There is an illustration. Even though you retain in the Constitution the right, and make it the duty of a State to enforce that amendment, what have you got? It is a matter of common knowledge that in many jurisdictions they say the Federal Government has usurped this authority and has entered this field, and therefore the local officers and local grand juries are under no moral or legal responsibility with reference to the commission of those offenses.

Do you want to add to the burden further? Do you want to add to the confusion further? If you continue this practice and this policy, then you will undertake to make a Federal offense of everything that touches the post office or touches the mails or touches any kind of Federal activity whatever, because certainly the private property known as a national bank is not entitled to any more protection by a Federal court than

are all the officials and activities connected with the Federal Government. Then you will have piled upon the Federal court the duty of punishing offenses that from time immemorial have been punished and tried by local courts and local grand juries.

Mr. JOHNSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. WINGO. Yes.

Mr. JOHNSON of Texas. Is it not true that the Federal courts are already congested by reason of the increased jurisdiction conferred upon them?

Mr. WINGO. Oh, yes. You have overburdened the local Federal courts and already made them police courts. The moment a bank is robbed, if it is a member bank, the local grand jury will say, "Let the Federal courts attend to that." The moment you have the question of a farmer, maybe, taking his wheat or his corn or his cotton to market and disposing of the proceeds before he has technically satisfied the mortgage that the bank has upon it, you will have him haled into a Federal court, not a local court.

There is the evil, gentlemen. If you flatter yourselves that there is a feeling of respect and confidence in the hearts of the people of the country toward the Federal courts at this hour, you are mistaken.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. WINGO. Mr. Chairman, may I have three minutes additional?

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. WINGO. This very thing will have a tendency to make it more attractive to a man to have his banking dealings with State banks rather than with Federal banks. Why, gentlemen, we will take the offense with reference to making a false statement. When a farmer, a merchant, or anybody else goes in to his banker the banker understands, gentleman, that that man is going to put up the finest presentation of his condition he can. The banker is not going to be deceived. If you write this amendment into the statutes and a man wants to borrow money from a bank he will say, "It will be safer for me to go to a State bank, because if I make a statement to a national bank they are liable to catch me up on some technical misrepresentation, which may not, in the first instance, have been misleading to the cashier, but standing naked and alone, and in the light of subsequent events, may be misleading, no matter how honest the man may have been. He may have had some subsequent misfortune; the value of his securities may have dwindled, and then the bank comes and says: "Pay, pay, or we will drag you into a Federal court and prosecute you." So that sooner or later people will say: "We will confine our borrowings to State banks rather than run the risk of getting tangled up in a Federal court upon some technical matter," which an over meticulous Congress, in their anxiety, have placed upon the statute books.

This is vicious, gentlemen. The courts of the States can protect the banks against these crimes. It is the duty of the courts of the States to do it; they are able to do it and they are doing it. I protest against this further invasion of the police powers of the States. [Applause.]

Mr. McFADDEN. I would like to ask the gentleman on the other side whether we can not agree on a time in which to close debate.

Mr. WINGO. Suppose we agree on 30 minutes.

Mr. CONNALLY of Texas. Let us go along for a while and then come to some agreement.

Mr. McFADDEN. Thirty minutes is a pretty long time. But let me speak for a couple of minutes and then see whether we can not arrange this matter.

It is fair for the House to understand why this proposal was inserted in the bill. I want to say to the House that this amendment was worked out and was based on the operations of the comptroller's office and the Department of Justice in dealing with these various cases that come up. It has been very carefully considered both by the Department of Justice and the comptroller's office. The position of the Department of Justice is that there are many of these cases on which they can not get action in the State courts and that there should be some provision in the law providing for taking care of such cases. That is the whole crux of this situation. Some State courts are handling these cases in a satisfactory manner.

Mr. HILL of Maryland. Mr. Chairman, I would like recognition in favor of the amendment.

Mr. STEAGALL. Mr. Chairman, I ask recognition.

Mr. McFADDEN. Mr. Chairman, let me ask the gentleman from Arkansas [Mr. WINGO] whether we can not agree on limiting the time for discussion on this amendment.

Mr. WINGO. I am willing to reach a reasonable agreement. What does the gentleman suggest?

Mr. CONNALLY of Texas. Let us run along for a little while and then determine upon the time.

Mr. McFADDEN. Mr. Chairman, I ask unanimous consent that all debate on the amendment to strike out the section close in 20 minutes.

Mr. CONNALLY of Texas. Oh, no.

Mr. WINGO. Say 30 minutes, and say this section and all amendments thereto.

Mr. McFADDEN. Mr. Chairman, I ask unanimous consent that all debate on this section and on all amendments thereto close in 30 minutes.

Mr. JONES. Reserving the right to object, let me suggest that if you limit the speeches to about three minutes instead of five minutes we can all get in. There are a number of amendments which Members desire to offer.

Mr. CONNALLY of Texas. Mr. Chairman, reserving the right to object, I would like to say to the gentleman from Pennsylvania that we have been talking on this bill now for two or three days, and when we strike something that is really important there seems to be a desire to cut the time for debate. What is the haste? Let us talk about it a little bit.

Mr. BEEDY. If the gentleman pleases, the gentleman from Pennsylvania has made his request at the suggestion of your minority leader. We are trying to accede to his request.

Mr. CONNALLY of Texas. The gentleman is altogether too generous in his statement about that.

Mr. BEEDY. The gentleman from Arkansas has said that he would like to limit debate to 30 minutes, and that is the request of the gentleman from Pennsylvania.

Mr. CONNALLY of Texas. How are you going to partition the time? That is what we would like to know.

Mr. McFADDEN. I will say to the gentleman 20 minutes on your side and 10 minutes on this side. [Cries of "Vote!" "Vote!"]

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that all debate on this section and all amendments thereto close in 30 minutes. Is there objection?

Mr. STENGLE. Mr. Chairman, reserving the right to object, unless the gentleman will add five minutes more I shall have to object.

Mr. McFADDEN. Mr. Chairman, I move that all debate on this section and all amendments thereto close in 30 minutes.

The motion was agreed to.

Mr. HILL of Maryland and Mr. BRAND of Georgia rose.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia, a member of the committee.

Mr. BRAND of Georgia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Georgia offers an amendment which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BRAND of Georgia: Page 22, line 23, after the word "both" insert a new paragraph to read as follows:

"(h) Whoever maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false report concerning any national bank or any other member bank of the Federal reserve system which imputes or tends to impute insolvency or unsound financial conditions or financial embarrassment or which may tend to cause or promote or aid in causing or promoting a general withdrawal of deposits from such banks or which may otherwise injure or tend to injure the business or good will of such bank shall be fined not more than $5 or imprisoned for not more than five years, or both."

Mr. BRAND of Georgia. Mr. Chairman, I would like to ask the chairman of the committee if there is any objection to the amendment which I have just offered, and whether he will accept the amendment.

Mr. McFADDEN. I will accept that amendment, I will say to the gentleman.

Mr. BRAND of Georgia. Mr. Chairman and gentlemen of the committee, I have examined the code of two or three different States of the Union and would have examined others, but I have not had the time, and I can not find in any of these States—nor in my own State, although it has a statute upon the subject—a statute which makes the offense set out in this amendment a felony. If I am correct about there being States which have no such statutes as my amendment proposes, it follows that the argument that the adoption of my amendment will be giving to the Federal courts jurisdiction of the same offense which the State courts now have is not well founded.

Mr. JOHNSON of Texas. Will the gentleman yield?

Mr. BRAND of Georgia. Yes.

Mr. JOHNSON of Texas. I did not get the full import of the gentleman's amendment. I want to inquire whether or not the terms of the amendment make it an offense if some one said something about a bank regardless of the truth or falsity of the statement.

Mr. BRAND of Georgia. "Whoever maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false report" is the language of the amendment.

Mr. JOHNSON of Texas. It says, "false report."

Mr. BRAND of Georgia. Yes; false report.

Continuing the statement which I want to make, suppose all the States in the Union have a statute similar to this, and when one violates a State statute that he can be prosecuted in the States courts, what objection is there to giving concurrent jurisdiction to the Federal courts for indictment and prosecution for the same offense?

Mr. CONNALLY of Texas. Will the genleman yield?

Mr. BRAND of Georgia. I yield.

Mr. CONNALLY of Texas. The gentleman asks what is the objection to making it concurrent.

Mr. BRAND of Georgia. Yes.

Mr. CONNALLY of Texas. Does not the gentleman know that that provides for two prosecutions for the same offense and jeopardy in one case can not be pleaded in the other?

Mr. BRAND of Georgia. Exactly; but have you ever known of a court——

Mr. CONNALLY of Texas. Why punish a man twice for the same offense?

Mr. BRAND of Georgia. I do not want to do that, but I want to make it sure if by such tack as contemplated by this amendment a bank is broken that certain punishment follows. Let me further answer the gentleman's question by asking one. Have you ever known a defendant prosecuted and convicted in the State courts for a felony like this who was thereafter upon the same state of facts indicted and convicted in the Federal court also?

Mr. LARSEN of Georgia. That is done every day.

Mr. BRAND of Georgia. I do not think that has ever been done in our State.

Mr. McKEOWN. Will the gentleman yield for me to answer that question? I will say to the gentleman that the process by which they operate is that they say to a man, "If you do not plead guilty in the State courts, I am going to take you over and prosecute you in the Federal court."

Mr. BRAND of Georgia. Mr. Chairman and gentlemen, if a man goes out on the streets of a city or the highways of a country and maliciously or with intent to deceive circulates a false report about a bank against which he harbors some grievance, if he escapes prosecution in the State courts, the Federal courts should have the right to bring him to the bar of justice to answer for his conduct; should he escape prosecution though his evil conduct and false reports may have caused a bank to close its doors?

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BRAND of Georgia. Mr. Chairman, I ask unanimous consent that I may be given five minutes more to discuss this amendment.

Mr. RAMSEYER. The time is limited, Mr. Chairman.

The CHAIRMAN. Under the motion that has been agreed to that request is not in order, as the debate has been limited to 30 minutes with the understanding that the time be apportioned to certain Members who signified their desire to be recognized.

Mr. RAMSEYER. Mr. Chairman, I wish to be heard in favor of the Wingo amendment.

Mr. HILL of Maryland. I have already asked recognition for that purpose.

Mr. BRAND of Georgia. Mr. Chairman, may I ask a question for information? I have no desire to take up the time of the House; but who fixed the time for me to speak at only five minutes? I am a member of the committee.

The CHAIRMAN. The rules of the committee. The rules of the committee say that a Member is entitled to speak for five minutes when the bill is being read for amendment.

Mr. BRAND of Georgia. We agreed upon 30 minutes, but I want to know who has the right to divide up that 30 minutes.

Mr. McKEOWN. Mr. Chairman, I desire to offer some amendments without making any comments upon them.

The CHAIRMAN. What is it the gentleman from Georgia desires to know?

Mr. BRAND of Georgia. I want to know when an agreement is made to limit the debate to 30 minutes what law or rule or what person has the right to say a member of the committee can speak only five minutes?

The CHAIRMAN. The rules of the Committee of the Whole House are very explicit that a person in debate on an amendment is entitled to speak for five minutes and no longer. That is the rule of the committee.

Mr. CONNALLY of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. CONNALLY of Texas: Page 23, line 15, strike out lines 15 to 25, inclusive.

Mr. CONNALLY of Texas. Mr. Chairman and gentlemen, I am not a banker and have not discussed the technical banking provisions of this bill, but my business experience has been chiefly in the courthouse and I think I know something about the prosecution and defense of criminal cases, for I have appeared on both sides of that issue as often as I could. [Laughter.]

Gentlemen, I want you to realize and understand what you are proposing to do in this section of the bill. The gentleman from Arkansas [Mr. WINGO] made a clear statement. I believe the whole section ought to go out, but if you do not strike out the whole section, for heaven's sake strike out paragraphs (i) and (j) on page 23.

In reply to the argument of the gentleman from Arkansas, the gentleman from Pennsylvania [Mr. McFADDEN] made the same old-stock argument that "this section has been very carefully considered by the committee." That is one reason why I am in favor of striking out the section, because it has been too carefully considered by the committee.

Here is what the bill proposes to do: You are making a Federal offense, hauling people halfway across the State in some cases into a Federal court for a crime already punishable under State law. Now listen:

(i) Whoever shall make any statement, knowing it to be false, for the purpose of obtaining for himself or for any other person, firm, corporation, or association a loan of money from any member bank of the Federal reserve system shall be punished by a fine of not more than $5,000, or by imprisonment for not more than five years, or both.

Why gentlemen it does not require that the bank shall loan any money on the statement. Every State law requires before the party can be prosecuted that he must make a false statement, that the bank must believe the statement, and that he must get the money. Under this provision if a citizen goes into a bank and says, "Mr. Banker, I want to borrow some money," and the banker asks him what kind of a crop he has and he says a fine crop and after a while the grasshoppers eat it up he may possibly be annoyed by a charge of making a false statement, though he receives no money on the faith of such statement.

Now what is section (j)?

(j) Whoever shall conceal, dissipate, sell, or fraudulently divest himself of any personal property upon which there is a mortgage executed by him to any member bank shall be punished by a fine of not more than $5,000, or by imprisonment for not more than five years, or both.

In other words, the bank has a mortgage on some personal property. It is already an offense under the State law, and yet if you pass this law, if that mortgagor disposes of a part of the mortgaged property he becomes guilty of a Federal offense and can be hauled half way across some State into a Federal court, when he could have been prosecuted under the State law in the county where the charge arose.

What else do you do? Under the law a trial and conviction in the Federal court is no bar to a prosecution in the State court. The conviction in the State court is no bar to a prosecution in the Federal court. If some little trader happens to dispose of a spotted calf on which some member bank has a mortgage, though there may remain ample security to satisfy the debt, he is subject to prosecution and conviction in both the State and Federal courts. It is not even provided that the sale must be fraudulent.

Gentlemen, you are going too far. These offenses ought not to be federalized. There is no more crime, no more moral turpitude in going to a national bank and getting money under false pretenses than there is in going to a merchant's place of business and getting money under false pretenses. There is no more moral turpitude and no more crime in going into a national bank and defrauding the bank of $5 than there is in defrauding an individual of $5. Why do you want to make it a double offense to get money from a bank?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. WILLIAMSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment by Mr. WILLIAMSON: Page 23, line 21, after the word "sell" insert the words "without the written consent of the mortgagee."

Mr. WILLIAMSON. Mr. Chairman and gentlemen of the House, I think the necessity for the amendment I have just offered is self-evident. As the section now stands, it would become an offense to sell mortgaged property even though the written consent of the mortgagee was given. The amendment is similar to the language carried in the statutes of the various States and is necessary in order that the parties to the mortgage may agree to dispose of the property pledged for the purpose of liquidation. Unless the bill is modified as suggested it would be very difficult for the mortgagor in many cases to meet his obligations when due.

Now, I want to devote the rest of my time to the attack that has been made on section 17 of the bill.

Mr. RAMSEYER. Will the gentleman yield?

Mr. WILLIAMSON. Yes.

Mr. RAMSEYER. Is the gentleman really sure that putting in the word "mortgagee" would cover the offense if the mortgage was in the hands of an assignee?

Mr. WILLIAMSON. Probably not. It would then be covered by State law.

Mr. RAMSEYER. When it gets beyond the hands of the mortgagee it is not an offense?

Mr. WILLIAMSON. No; the offense would be covered by the Federal statute only so long as the mortgage is among the assets of the bank making the loan. I want to say in that connection that the whole purpose of the section is to provide for punishment of offenses against national banks, and the moment the mortgage comes into the hands of a private individual or another bank there is no longer any necessity of following it up by a Federal statute.

Mr. RAMSEYER. The offense is against the people, and not against the corporation.

Mr. WILLIAMSON. Technically, under the law, that is correct. Actually, it is against the bank.

I can not yield to the gentleman further on that point. Subsection (i) has been criticized by the gentleman from Texas [Mr. CONNALLY] upon the ground that under it the mere making of a false statement to the bank for the purpose of obtaining credit, even though that statement is not acted upon by the bank, would constitute an offense. It is a well-recognized principle in law that a section or a paragraph must be construed in connection with the context and in connection with the general purposes of the section or bill, as the case may be. When so read and construed it becomes perfectly clear that a man could not be prosecuted under this paragraph for making false representations to a bank upon which the bank did not act to its injury and upon which it extended no credit. The section as written has been passed upon, as I understand it, by the Department of Justice, and presumably is in good form. Certainly the construction can not be placed upon it that has been attempted here.

Mr. RAMSEYER. Has the Department of Justice passed upon the gentleman's amendment?

Mr. WILLIAMSON. Oh, no; it has not. As to whether or not we should give the Federal courts concurrent jurisdiction with the State courts in punishing robbery and other crimes against national banks, as I regard it, is merely a question of policy. The whole Federal reserve system is built upon the national banks, and the bill simply seeks to extend to the national banks the protection of Federal law. If this shall appear to the House to be an unwise policy, the section should go out.

Mr. JOHNSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMSON. I can not yield. Time is too limited. This protection is one, however, that I think might well be granted. We have had innumerable cases of holdups not only of national banks, but of State banks throughout the Union. There has not been one case in ten where punishment has been meted out to the robbers. I have had considerable experience not only as a prosecuting attorney, but on the bench, and know that the prejudice against the banks is so great in some communities that prohibited offenses against them often go unpunished, even though evidence against those charged is of a convincing character.

The section as written is aimed at better law enforcement, and law enforcement in the end is primarily in the interest of the whole people, and not in the interest of any individual or special group, further than to protect such individual or group against lawless and criminal acts. If this section does not contribute to better law enforcement and added protection to national banks, it may well be dispensed with. But if it does, it should be retained.

Mr. STEAGALL. Mr. Chairman, I want to supplement what was said by the gentleman from Arkansas [Mr. WINGO] and the gentleman from Texas [Mr. CONNALLY] by calling attention to the fact that under paragraph (j) we not only Federalize the offenses named in this act but we create offenses which, I dare say, do not exist in any substantial number of States in the Union. I call attention to the language of the last paragraph of this section, and I ask Members to give it their attention, especially those of you who are lawyers:

Whoever shall conceal, dissipate, sell, or fraudulently divest himself of any personal property upon which there is a mortgage executed by him to any member bank shall be punished by fine of not more than $5,000 or by imprisonment for not more than five years.

"Whoever shall conceal"—not fraudulently conceal, not conceal with intent to harm or injure anybody having a claim to property, but whoever shall merely conceal; whoever shall dissipate—not fraudulently dissipate—and whoever shall sell, not fraudulently sell, or convey—not whoever shall sell for the purpose of hindering, delaying, or defrauding a bank who has a claim on the property, but whoever shall sell any property upon which he has given a mortgage shall be punished by the fine or imprisonment as fixed in this section of the bill. The only qualification requiring a fraudulent intent is as to one who divests himself of personal property upon which he has given a mortgage. Are we ready to say to the farmers of the South and West who are accustomed to execute mortgages on their crops that every time they take a bale of cotton or a load of wheat or a load of hay or a load of hogs to market and sell it, even though it be for the purpose of discharging a mortgage upon that identical property and without wrongful intent, they shall be subjected to the trial for a Federal offense and dragged across the country and tried in a Federal court as a criminal who is trying to defraud somebody in a sense equal to that of larceny?

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. STEAGALL. Yes.

Mr. WATKINS. I have suggested an amendment, and I think the committee will agree with it, and I ask the gentleman whether he thinks it is adequate. I suggest that, following the word "whoever," we insert the words "with intent to defraud." Would that suffice?

Mr. STEAGALL. That would help it, but something like that is needed in several other paragraphs of this section, and the gentleman from Texas [Mr. CONNALLY] pointed out that merely for going into a bank and making a statement which might be found not to be accurate a man would subject himself to the penalties of this section, even though the bank may not have been defrauded, even though the bank may not have parted with one dollar of its money by reason of the false representation. It is ridiculous, and any lawyer who has ever had any experience in either defending or prosecuting criminal cases knows this is so. Such a statute would work untold hardship and injustice.

Mr. SUMNERS of Texas. Does not the gentleman think that as a general proposition these bankers ought to be interested in maintaining good State governments where they can get protection? What is the reason for this?

Mr. STEAGALL. Certainly. I agree with all that has been said about the vicious policy of federalizing every petty offense like this does and subjecting citizens to trial in distant courts under Federal authority instead of holding them responsible to the citizenship of their own county, who know the customs that prevail in that particular community, under the good old system that once prevailed in this country where the people governed themselves back home in their States. [Applause.]

Mr. HILL of Maryland and other Members rose.

The CHAIRMAN. The Chair will recognize the gentleman from Maryland.

Mr. McFADDEN. Mr. Chairman, will the gentleman from Maryland yield to me to make a short statement?

Mr. HILL of Maryland. Yes.

Mr. McFADDEN. I rise for the purpose of suggesting that inasmuch as the attorneys here are raising so much objection to this section, so far as I am concerned, I shall agree with the opposition to strike it out. [Applause.]

Mr. HILL of Maryland. That being the case, I shall not take up much of the time of the committee in discussing the necessity for clearly defining the difference between the penal system of the United States and the entirely separate and distinct

penal system of each of the individual and sovereign States. I have just touched on this question in my remarks on my proposed amendment to strike out section 16. There may be some doubt in your minds as to whether or not section 16 deals with what should be made a Federal offense, but there should be no doubt that section 17 creates new Federal crimes, which are not now Federal crimes and which should not properly be made Federal crimes. I am glad the gentleman from Arkansas [Mr. WINGO] has moved to strike out section 17, as I stated when I opposed section 16. I intended to move to strike out section 17 if a member of the Banking and Currency Committee did not do so.

The report of the committee on section 17 states:

SEC. 17. This section amends section 22 of the Federal reserve act by making the following acts crimes punishable under Federal statute: Conspiracy to boycott, blacklist, or to cause withdrawal or deposits from a member bank; robbery or burglary of a member bank; making intentional false statements for purpose of obtaining credit from a member bank; and fraudulently dissipating or selling personal property upon which there is a mortgage to a member bank.

Section 17, therefore, admittedly creates a number of new offenses against the laws of the United States as distinguished from existing offenses defined by the laws of the various States. The fundamental theory of Federal and State laws has always been, until very recent years, that the State laws dealt with local crimes and the Federal laws with offenses against the United States itself or some of its own laws on matters peculiarly relating to the Federal Government. So jealous of the independence of State police laws from Federal encroachment were the founders of the Constitution that William Maclay, Senator from Pennsylvania, voted against the judiciary bill in July, 1789. This bill, which had been prepared by a Senate committee of which such friends of freedom as Charles Carroll of Carrollton were members, was bitterly opposed by some of the State rights Members of the Senate.

"I opposed this bill from the beginning," Senator Maclay wrote in his journal." "It certainly is a vile law system calculated for expense and with a design to draw by degrees all law business into the Federal courts. The Constitution is meant to swallow all the State constitutions by degrees, and thus to swallow by degrees all the State judiciaries."

The watchful care with which all Federal penal laws were scrutinized kept Maclay's prediction from having any special warning until recent years, when the tendency arose to put more and more burdens on the Federal judicial system. Today we can well consider Senator Maclay's warning. The Federal Government should be strong in its legitimate province, but it is weakened by attempts to expand its sphere to matters which are essentially and properly matters for the local police power of the separate and individual States.

Burglary is a well-known crime. It is recognized and punished in every State of the Union. There is no difference, from the standpoint of orderly jurisprudence, whether burglary is committed on a Federal reserve bank, State bank, or a bank that has not joined the Federal reserve system. The laws of every State now punish the bank burglar, whether the bank be a reserve bank or not. There is no need to create double jeopardy and permit the State and the United States to punish for the same burglary.

Nor is it wise to take from the States the right to try bank burglars who happened to select a bank that had joined the Federal reserve system. Here, however, is one of the things that section 17 of the pending bill proposes. Section 17 contains the following:

Whoever shall break into and enter any member bank of the Federal reserve system with intent to commit a felony therein shall be imprisoned for not more than 20 years.

Already, the Federal courts are swamped with cases that properly belong to the State courts, and here you are asked to add new crimes to the Federal Penal Code. You are asked to make new Federal crimes of matters that are now taken care of properly by the State courts.

Suppose burglars entered two banks, a State bank located next door to a State bank that had joined the Federal reserve system, and suppose they stole the same amount of money from the nonmember bank as they stole from the member bank; the offense would be the same, an offense against the peace of the State, and yet, by section 17, one offense would be a Federal crime and the other would be only a State crime. If the burglaries were committed, let us say, on the eastern shore of Maryland, one offense would be triable locally and the other in Baltimore in the United States District Court, with the probability that in the latter case the burglar could be tried a second time by the local State court, even after conviction by the Federal court, thus violating the guarantee against double jeopardy contained in the Constitution.

I am glad the chairman of the Banking and Currency Committee [Mr. MCFADDEN], who has so ably handled this complex and difficult bill, has stated that he accepts the amendment of Mr. WINGO, and I hope you will vote to strike out of the pending bill section 17 and thus prevent a further and unwarranted encroachment on the police powers of the States. [Applause.]

The CHAIRMAN. The Chair desires to know whether the various gentlemen who have perfecting amendments desire to withdraw them?

Mr. BRAND of Georgia. No; I do not.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

Mr. BRAND of Georgia. I would be glad for the Clerk to report my amendment as a new paragraph.

Mr. HILL of Maryland. I make the point of order that debate is exhausted on all amendments pending.

The CHAIRMAN. Does the gentleman desire his amendment to be put for action by the committee?

Mr. BRAND of Georgia. No, sir.

The CHAIRMAN. There is a motion to strike out the language of the section. Does the gentleman wish his perfecting amendment to be considered?

Mr. BRAND of Georgia. I want a vote upon my amendment, and if I can withdraw it for the present and reintroduce it as a new paragraph I will do that. I withdraw it, Mr. Chairman, for the moment.

Mr. AYRES. Mr. Chairman, I have a perfecting amendment which I offer, which is in the hands of the Clerk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Kansas.

The Clerk read as follows:

Amendment offered by Mr. AYRES: Page 23, line 25, after the words "or both," insert the following as a new paragraph to be designated:

"(k) It shall be unlawful for any director of any Federal reserve bank to solicit, either directly or indirectly, his reappointment or reelection as a director of any such bank. Any director who willfully violates this provision shall be deemed guilty of a misdemeanor and shall on conviction thereof, in any district court of the United States, be fined not more than $1,000 or shall be imprisoned for not more than one year, or both such fine and imprisonment."

During the reading of the amendment,

Mr. BEEDY. Mr. Chairman, I make the point of order that the amendment is not in order.

Mr. AYRES. I suggest the gentleman wait until it is read.

The CHAIRMAN. Without objection the Clerk will complete the reading of the amendment.

There was no objection.

The Clerk resumed and completed the reading of the amendment.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The question recurs on the motion of the gentleman from Arkansas to strike out the section.

The question was taken, and the motion was agreed to.

Mr. TIMBERLAKE. Mr. Chairman, I have followed the discussion of this bill with deep interest and with, I must admit, some changes in previously formed opinions regarding the main subject of the bill.

I entered this consideration with pronounced views against branch banking, believing as I did that it was wrong in principle. This was not only my judgment, but I was supported in this view by the leading national bank officials in my district, with whom I have frequently discussed this subject.

While I entertained the same opinion as that held by the members of the great Committee on Banking and Currency of this body as to the provisions of the bill being wrong in principle but necessary for expediency, I have sought to follow them, realizing as I do the fact that their opportunity to study the question in all of it phases was far superior to my own, and now, after weighing all evidence adduced by members of the committee supporting the bill, I have decided to surrender principle for expediency and support the bill. I intend to vote for it.

I desire, first, however, to voice my objection to the principle which is embodied in the bill and to express the hope entertained by its proponents that it will not mean the entering wedge that will ultimately mean its further spread than the confines proposed in the bill, i. e., cities having a population of 25,000 or more, and with no branches outside the city in which the parent bank is domiciled.

I realize, as the committee suggests, that this action is one only of expediency and taken to protect the national bank members of the Federal reserve bank against the possibility of being forced to surrender their national bank charters and their membership in the Federal reserve system and take out State charters, which action very many of our national banks have felt forced to take recently to enable them to meet the competition of State banks in States permitting branch banking by their member banks. This bill would give national banks only the same rights as their competitive State banks enjoy, thus enabling them to meet this competition and still be a part of the Federal reserve system, the perpetuity and stability of which appears to be threatened unless such action as this be taken.

The arguments presented by the committee have been impelling and convincing, and I have been constrained to follow them in their views. I believe the Federal reserve system to be a strong and most needful financial agency of the Government, yet I can not help but question whether it has conducted its affairs as was contemplated by the framers of the act. It was intended that it prevent failure of its member banks, which failures cause such hardship on the people and communities where they occur. It seems, however, that the Federal reserve banks have not exercised this province. This is evidenced by the failure during the last year of 750 national and State banks and a great majority of these were national banks. They were mostly located in the agricultural sections of our country, where the greatest hardships were felt by the action of the Federal reserve banks in bringing about overnight almost the policy of deflation in 1919.

After the period of great inflation during the war deflation was necessary and should have been started when the war closed and by a more gradual process, which would have allowed all to gradually adjust their affairs so that when finally accomplished no such disturbance of business nor such irreparable losses would have resulted as those sustained by our people following agricultural pursuits have suffered. I therefore charge the Federal reserve banks very largely responsible for the deplorable condition agriculture has passed through during the past four years, and from which it is still suffering.

Branch banking is wrong in my judgment. It tends to foster monopolization. Yet I have known of many instances where branches of this system located in agricultural sections hard hit by this deflation by reason of frozen assets, caused by the great depreciation of values, when found by their bank examiners to be insolvent and their closing contemplated were not allowed to be closed, which would have entailed such loss to depositors and communities, but were at once given aid by the parent bank and the branch bank kept open. The great losses following closings were averted. To these communities branch banking was a great blessing.

Query: Should not our Federal reserve banks show like consideration to their member banks? In the case of those national banks which have failed, coming under my personal knowledge, could they have been given the assistance by the Federal reserve banks as given by the parent bank to its branches these frozen assets would have ere this, perhaps, or within a short time, become liquid and these great losses have been averted.

Mr. WEFALD. Mr. Speaker, it is almost impossible for me to visualize bankers coming before Congress and asking for legislation in the interests of the people. The McFadden bill is purely a piece of class legislation, and as such I am against it. It is not claimed for it that its passage will benefit the people in general. Its passage is asked in order that the national banks may be benefited. The main purpose of the bill is to sanction and extend branch banking, to a limited extent to be sure, but it will be an entering wedge, if passed, that will in a short time drive the small bankers out of business and the local banks out of existence. The proponents of the bill say that the national banks and the Federal reserve system is threatened with dire calamity through the inroads into the banking business by the State banks. To get justice for the poor, down-trodden, big national banks—the small banks are not considered—the proponents ask for perpetual charters and the right to establish branch banks. A few minor favors are asked for, like the increase in the loan limit to individuals and extension of time for loan periods on city real estate from one to five years. These demands are supposed to tickle the small-town bankers and line up their support for the bill.

The bill also sets up a new catalogue of crimes under Federal law for offenses against national banks and bankers by which it would be possible to mete out double punishment in State and Federal courts for the same crimes. This bill has the real earmarks of class legislation, for after having asked for the different special favors, we are importuned to throw the strong arm of the law around them by which these interests will be perpetually protected in their old and new rights and also to a great extent eliminate every risk in the business.

The bill proposes that if two or more persons conspire to boycott, blacklist, or cause a general withdrawal of funds or to injure the business or good will of a national bank or other members of the Federal reserve, each party shall be liable to a fine of $5,000 or five years' imprisonment, or both. If we establish this as law, it may indeed be dangerous in any manner at all to criticize a banker. The bill provides that bank robbery shall be punishable by imprisonment for 20 years, and if a dangerous weapon is used, 25 years. The making of a false financial statement for the purpose of obtaining credit shall be punishable by a fine up to $5,000 or five years' imprisonment, or both. The selling of mortgaged property shall be punishable to the same extent of severity as the making of false credit statements. I am willing that bank robbery shall be severely punished, but before I vote for these severe penalties I want to wait and see what size of punishment will be meted out to an arch criminal like Colonel Forbes, whose stealings are reputed to have run into the hundreds of millions and who has caused more suffering than any bank robber or bank wrecker on record. I also want to see what punishment will be given Doheny, Sinclair, and Fall for their stealing of hundreds of millions of dollars' worth of the public domain from the Government before I vote for the severe penalties asked here to be meted out against, for instance, a farmer in desperate financial circumstances trying to obtain a loan to save his home, who may under the stress of the circumstances overvalue his assets, or for the severe penalties asked here that might be inflicted upon a farmer who might kill and eat a calf that had been mortgaged.

There are also many other provisions in this bill that have been extensively discussed and which I will not be able to take up, which are, to my mind, not proposed in the interests of the public good. We are asked to give to national banks perpetual charters, just like patents of nobility were granted by monarchs of the Old World to their favorites. The Federal Congress should grant no perpetual right. We have enough of a money aristocracy and banking nobility as it is to-day without passing any legislation that would forever perpetuate their privileges.

In these discussions there have incidentally been alluded to the many bank failures the country has had during the last four years. It is true that we have had nearly 2,000 bank failures during the Republican administration, but the banks that have failed have been nearly all located in the agricultural districts. Nearly all have been comparatively small banks that would not have been materially benefited by the passage of this act. Of the banks that failed less than one-sixth have been national banks. Yet we are asked to pass this bill to stop the inroads of competition from State banks. The banks that failed in the agricultural districts failed because the farmers failed and not because some more special privileges should have been afforded them. Whenever we so adjust affairs that the farmers again become prosperous banks will again prosper, even without any new banking laws being passed. Not one champion of this bill has shown us that the passage of it would mean lower interest rates to the farmers and the people in general. I have heard nothing to that effect in the debate upon the floor of the House, nor have I seen anything that would hold out such a promise in the printed hearings.

Some of the supporters of this bill admit that the passage of it will further extend branch banking and claim that the extension of branch banking will work for the public good. Other supporters of it claim that it contains only as much of the evils of branch banking as is necessary as an antidote against branch banking by State banks where it exists. Only one place in the hearing can I find that the question of lower interest rates for the farmer is touched on at all in the discussion of the bill in the committee. The Hon. Edmund Platt, vice governor of the Federal Reserve Board, who champions branch banking, quoted from a report of a recent parliamentary investigation in England to the effect that the extension of branch banking and the extermination of country banks had brought about keener competition and resulted in better treatment to agricultural communities. He had found this borne out also by the findings of a Canadian committee which investigated credit conditions in the Canadian Northwest a couple of years ago. He also referred to a statement by Mr. Frank Murphy and Mr. Cashman, of Minnesota, appearing in the hearings on the McNary-Haugen bill, from which he deducted that farmers get lower interest rates from Canadian banks than farmers get from banks in our own country.

There may be some truth to this; but monopoly, with us, has always taken the other course, namely, to eliminate competition. If, as in the matter of branch banking in England and Canada, it stimulates competition and results in better treatment to the common man, the reverse has, to my observation, usually been true in this country. In the Northwest, where I live, we have the branch or line lumber yard and the branch or line elevator, but the creation of monopoly in these branches of trade has not worked out to the best advantage of the people. These business organizations have always charged the public all the traffic would bear, and driven farmers to organize for mutual protection, and compelled them in many places to enter actively into business in these lines. To add branch banking would be to add another evil to those already in existence.

The local home banker ought to be given a further lease of life. He is usually the first man to come to the front with his advice and his money for the things that build better communities; and while the small-town banker has not always given the service he ought to have given, the strenuousness of the last years, I think, has taught him a lesson and brought him closer to and in closer touch with the people of the community.

To sum it up, I have not been shown where this bill will benefit the people generally. The couple of items in it that might be of interest to the small-town banker is not enough to offset the evil things in it. I am firmly convinced that the passage of the McFadden bill would be the beginning of the end of the small-town banker. For that reason I feel constrained to vote against it. In casting my vote against this bill I feel sure that I am expressing the will of my constituents—the farmer, whose interest it is not to have banking monopoly further extended, and the small-town banker, whom I want to see yet have a right to a place in the sun. Of much more value to the people than would be branch banking would be the right of the people to establish cooperative banks, but as yet even to propose it would be considered revolutionary.

Mr. STENGLE. Mr. Chairman, I am in hearty accord with Judge BOYCE, of Delaware, who says:

I have given my best consideration to the bill before the House. I have listened with careful attention to the arguments of the various Members who have discussed the bill pro and con.

My opinion is that if the bill shall be passed it will not strengthen, but will weaken, the Federal reserve system, if not the national banking system generally.

In an amendment to the Federal reserve act, passed in 1917, intended to encourage banks and trust companies of State origin to become members of the Federal reserve system, it was declared: "Subject to the provisions of this act and to the regulations of the board made pursuant thereto, any bank becoming a member of the Federal reserve system shall retain its full charter and statutory rights as a State bank or trust company, and may continue to exercise all corporate powers granted it by the State in which it was created, and shall be entitled to all privileges of member banks."

Obviously the bill is more or less patchwork and, if passed, it will, in my opinion, tend to alienate State banks from the Federal reserve system. A more desirable bill, it seems to me, would be to liberalize the national banking system and place the banks of the national system more nearly on a parity position with the best State banks.

The Federal reserve system, having been created, it is desirable that all eligible State, as well as national banking associations, should be equally encouraged to join the Federal reserve system and thereby give the greatest possible financial strength to all banks, whether national or State.

In the discussion of the bill under consideration, it has become manifest that there exists a fear that the Federal reserve system is in danger, due, in a more or less degree, to the existence of the dual banking system in the country with the lack of parity between the two systems and particularly in respect to membership in the Federal reserve system.

What is most desirable is the avoidance of the impairment of the financial strength of either system of banking, and the safeguarding of the Federal reserve system. My opinion is that the present bill will, if passed, drive State banks from the Federal reserve system, greatly impairing the system. The feature in the bill providing for branch banks will not relieve the situation and is, to my mind, of doubtful wisdom—altogether, I am constrained to vote against the bill.

Mr. BRAND of Georgia. Mr. Chairman, I offer my amendment.

The CHAIRMAN. The Chair would like to ask the gentleman from Georgia whether his amendment is in the form of a new section?

Mr. BRAND of Georgia. Yes; I am offering it as a new paragraph to this section.

The CHAIRMAN. The gentleman from Georgia offers an amendment in the form of a new section which the Clerk will report.

The Clerk read as follows:

Insert as a new section to read as follows:

"SEC. 17. (a) Whoever maliciously, or with intent to deceive, makes, publishes, utters, repeats, or circulates any false report concerning any national bank, or any other member bank of the Federal reserve system, which imputes or tends to impute insolvency, or unsound financial condition, or financial embarrassment, or which may tend to cause or provoke, or aid in causing or provoking, a general withdrawal of deposits from such banks, or which may otherwise injure, or tend to injure, the business or good will of such banking, shall be fined not more than $5,000, or imprisoned for not more than five years, or both."

Mr. BEEDY. Mr. Chairman, I make the point of order that the amendment offered is not germane to the bill.

The CHAIRMAN. Although section 17, which adds a paragraph to section 22 of the Federal reserve act has been stricken out, section 16, which also adds a paragraph to section 22 of the Federal reserve act, is still in the bill and therefore the Chair thinks the amendment is germane and overrules the point of order.

Mr. LONGWORTH. Has not debate been exhausted on this section?

The CHAIRMAN. No; this is a new section. All debate on section 17 and amendments thereto has been exhausted and the section has been stricken out, but this is a new section being offered.

Mr. McFADDEN. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto be limited to five minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. BRAND of Georgia. Mr. Chairman, the new section which I propose, being known as section 17, reads as follows:

(b) Whoever, maliciously or with intent to deceive, makes, publishes, utters, repeats, or circulates any false report concerning any national bank or any other member bank of the Federal reserve system, which imputes or tends to impute insolvency or unsound financial condition or financial embarrassment, or which may tend to cause or provoke, or aid in causing or provoking, a general withdrawal of deposits from such bank, or which may otherwise injure, or tend to injure, the business or good will of such bank, shall be fined not more than $5,000 or imprisoned for not more than five years, or both.

In the first place, I want to say that a provision seeking practically the same purpose as my amendment was in the bill as originally introduced. It was stricken out of the bill by a majority vote of the Committee on Banking and Currency. This amendment has been recommended by the Comptroller of the Currency, and my information is that it meets with the approval not only of the Federal Reserve Board but of the Treasury Department. Besides, the distinguished chairman of the Banking and Currency Committee of the House himself, as the committee knows, has agreed to accept the amendment. In addition to this, so far as I am informed, there is no member of the Banking and Currency Committee, either Republican or Democrat, who is opposed to this amendment.

There is a very strong sentiment throughout the country in favor of this amendment as a protection to the national and State member banks of the Federal reserve system. So far as I can ascertain, but few States have State laws which cover in terms the offense sought to be made a felony by this amendment. If this is not true, and if all the States have similar laws, the adoption of the amendment would only be giving Federal courts concurrent jurisdiction of the offense sought to be made a Federal offense by the language of this amendment. No one, of course, wants any offender to be punished twice for the same offense, and yet I believe that the Federal law should be thus amended so as to protect all member banks of the Federal reserve system.

The punishment for such an offense as provided for by this amendment should not be left exclusively for the State courts to deal with. These member banks of the Federal reserve system are entitled to the assistance of the Federal courts in order to protect its own financial institutions. Every stockholder and every depositor in national banks, and also State banks which are members of the Federal reserve system, should have the aid of the Federal court in punishing any person who may, maliciously and with intent to deceive, circulate false reports against the solvency of these Federal institutions. The depositors

and stockholders of these banks are entitled to special protection against any evil person who, maliciously and with intent to deceive, makes and utters false reports concerning their solvency. It is a serious offense for one maliciously or with the intent to deceive to make and circulate false reports which would tend to break or cause or provoke a general withdrawal of deposits from any bank. There is no more successful way to bring about the breaking of a bank to the great injury of any community, as well as to its depositors and stockholders, than to make people believe false reports which may be maliciously uttered and circulated about the solvency of a bank.

There is more or less prejudice against the Federal reserve system and member banks of this system in the minds of many of the people during these perilous times, and the minds of the depositors can be easily misled by false reports against the solvency of a bank. I contend there would be no infringement upon the rights of a State to enact a Federal law making it a crime to maliciously make and circulate false reports with intent to deceive the public in regard to the solvency of banks. It ought to be generally known throughout the United States that it is felony under the Federal law, as well as State laws, to be guilty of such conduct. I am not speaking particularly in defense of national banks or member banks of the Federal reserve system, but my interest is in and I am concerned about the depositors and stockholders in these banks.

The adoption of this amendment will hurt no individual, will injure no bank, State or Federal, and no bank whether in or out of the Federal reserve system, and yet will afford protection to the stockholders and depositors in all the banks of the Federal reserve system. Conceding that the States of the Union have similar laws, a malicious person would hesitate a long time before circulating false reports about the solvency of a bank with intent to deceive the people if he knew that not only the State courts could indict and convict, but that the Federal courts would certainly punish him if for any reason the State courts did not.

The CHAIRMAN. The time of the gentleman from Georgia has expired. The question is on agreeing to the amendment offered by the gentleman from Georgia.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 18. That section 24 of the Federal reserve act be amended to read as follows:

"SEC. 24. (a) Any national banking association may make loans secured by first lien upon improved real estate, including improved farm land, situated within its Federal reserve district or within a radius of 100 miles of the place in which such bank is located, irrespective of district lines. A loan secured by real estate within the meaning of this section shall be in the form of an obligation or obligations secured by mortgage, trust deed, or other such instrument upon real estate when the entire amount of such obligation or obligations is made or is sold to such association. The amount of any such loan shall not exceed 50 per cent of the actual value of the real estate offered for security, and such loan shall not run for a longer term than five years. Any such bank may make such loans only when the aggregate amount of such loans held by it or on which it is liable as indorser or guarantor or otherwise does not exceed a sum equal to 25 per cent of the amount of the capital stock of such association actually paid in and unimpaired and 25 per cent of its unimpaired surplus fund, or to one-third of its time deposits, subject to the general limitation contained in section 5200 of the Revised Statutes of the United States. Such banks may continue hereafter as heretofore to receive time deposits and to pay interest on the same, but the rate of interest which such banks may pay upon such time deposits or upon savings or other deposits shall not exceed the maximum rate authorized to be paid upon such deposits by State banks or trust companies organized under the laws of the State wherein such national banking association is located;

"(b) Any national banking association may, subject to the limitations contained in section 5200 (9) of the Revised Statutes of the United States, engage in the business of purchasing and selling without recourse obligations evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, debentures, and the like commonly known as investment securities.

Mr. McFADDEN. Mr. Chairman, for the benefit and enlightenment of the Members of the House I would like to make a brief statement as to this section.

Section 18 is a reenactment of section 24 of the Federal reserve act, under the provisions of which a national bank is permitted to make loans upon improved real estate. The only substantial change made from the existing law is the increase of the period for which a loan may be made upon improved city property from a period of one year to a period of five years. The demand for this change in the law has been made with great insistency, and it meets with practically the unanimous approval of the national banks in the small towns and cities. The large city banks are not particularly interested in lending money upon city property, but in the case of the bank in the small communities the situation is different. First mortgages upon improved city property is the best security which the customers of the banks in the small communities can offer. The present time limit of one year is too short to meet the situation. Such real-estate loans are ordinarily made by State banks for periods from three to five years. A five-year mortgage note upon improved city property is more liquid and has a greater marketability than a one-year mortgage note.

Next to branch banking the competition which these smaller national banks feel most from the State banks is in this matter of real-estate loans. If a national bank can not accommodate its customer by lending him money upon the security of his city property for a period longer than one year, such a customer naturally goes across the street to one of the State banks or trust companies, where he obtains a loan upon the security of his real estate for the period he desires. The commercial account of such a customer in many cases will gravitate toward the bank which makes him such a loan. In this manner State banks and trust companies in the smaller cities and towns have been able to make steady inroads upon the business of the national banks to such an extent as seriously to impair their progress. This section as redrafted will have the effect of lifting to a considerable extent this handicap upon the smaller national banks.

Mr. WINGO. Mr. Chairman, will the gentleman yield right there?

Mr. McFADDEN. Yes; I will.

Mr. WINGO. This authorizes the national banks to tie up their assets for five years on real-estate loans. Now practically all the big banks are for it. But did any of them fail to raise an objection when we tried to have a more liberal period afforded for agricultural paper? Can you conceive of anything that is colder and less liquid than a five-year loan on real estate?

Mr. McFADDEN. I have just said to the House that it is more liquid than a one-year mortgage.

Mr. STEVENSON. Mr. Chairman, I have an amendment that I desire to put in.

The CHAIRMAN. The gentleman from South Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. STEVENSON: Page 24, line 22, after the word "deposits" insert the words "at the election of the association."

Mr. McFADDEN. Mr. Chairman, I accept that amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina.

The amendment was agreed to.

Mr. JACOBSTEIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

Mr. LUCE. Mr. Chairman, I have an amendment to offer. I am a member of the committee.

The CHAIRMAN. Does the gentleman desire to offer an amendment?

Mr. LUCE. Yes.

The CHAIRMAN. The Chair will state that after the gentleman from New York, the Chair will recognize the gentleman from Massachusetts in due season. The Clerk will report the amendment offered by the gentleman from New York.

The Clerk read as follows:

Amendment offered by Mr. JACOBSTEIN: Page 24, line 16, strike out the period after the word "years" and insert a comma, and add the following "*Provided*, That the appraisal used as a basis of such loans shall be approved in writing by two officials or two directors of the bank."

Mr. JACOBSTEIN. Mr. Chairman, I am not opposing the principle of this section, or this portion of the section relating to loans on real estate. The amendment I am offering simply seeks to fix the responsibility for the acceptance of the real-estate security that may be used as the basis of the loan.

As I understand the law, there is no regulatory feature of the Federal law to-day by which any officer or director of a bank is made responsible for any appraisal of real estate upon which a loan is made. My amendment simply provides that when a bank makes a loan on real estate such appraisal as is accepted shall be approved in writing by two officials or two directors of the bank.

It seems to me that is a fair amendment, which merely fixes the responsibility in a section of the proposed bill extending

the loaning power of the bank on real estate. If my understanding of the law is correct, I can not see any objection to the amendment which I offer.

Mr. McSWAIN. Mr. Chairman, will the gentleman yield?

Mr. JACOBSTEIN. Yes.

Mr. McSWAIN. Does not the gentleman recognize that a loan on real estate is about the best security in the world except bonds themselves?

Mr. JACOBSTEIN. I am not questioning the character of the loan. All I say is that when a national bank or a member of the Federal reserve system makes such a loan then some officer or director of that bank—I say two—shall be responsible in passing upon that appraisal. That is not uncommon in our State laws.

Mr. McSWAIN. Mr. Chairman, will the gentleman yield further?

Mr. JACOBSTEIN. Yes.

Mr. McSWAIN. Then why not hedge about the appraisal of personal and chattel securities in the same way or in a more strict way?

Mr. JACOBSTEIN. Well, because where large values are involved on real estate some minor officer of a bank, a bank which may not be on a sound footing, may actually extend large loans in a situation where heavy losses may be incurred. All my amendment does is to fix responsibility upon some recognized officers or directors of a bank.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The amendment was rejected.

Mr. LUCE. Mr. Chairman, I move to strike out the paragraph beginning (a).

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LUCE: Page 24, beginning in line 8, strike out subparagraph (a).

Mr. LUCE. At the end of a long debate on a complicated bill it may be expected that members of the committee will feel that the most important proposals having been passed we may hasten to the conclusion. Yet it happens that in the last paragraph of this bill is one of its most serious proposals, and so I bespeak the patience of Members.

If the last five years have taught us anything in regard to economics, surely the story of frozen credits ought to make any man understand the danger in this proposal. The chairman of the committee has, quite unintentionally, I know, repeated the words of the report accompanying the bill wherein it was declared, also no doubt unintentionally, that the proposed change concerns only city property. The fact is that it concerns all improved real estate within the Federal district or within 100 miles of the bank affected. It contemplates that a substantial part of the capital and of the time deposits of any national bank may be lent on real-estate mortgages on improved property for a term of five years instead of one year.

In the 12 months ending with the first of this year——

Mr. STEVENSON. In order that we may be consecutive in this matter, the gentleman has made a statement about 100 miles from the bank. Is not the gentleman conversant with the present law which allows a national bank to loan for five years on any agricultural real estate within 100 miles of the bank? If the gentleman's motion prevails, it would leave it exactly that way—that they can loan for five years on agricultural lands within 100 miles of the bank, but can not loan but one year on city real estate. And that is the only change. It puts city real estate and country real estate in the same boat.

Mr. LUCE. Does the gentleman suggest that the present law or the change in the law prevents a national bank in the city of Boston from lending on improved real estate within a radius of 100 miles?

Mr. STEVENSON. I suggest that it actually permits it now. The present law is exactly as it is written here, except that it limits it on city real estate to loans of one year. There is no other change in the bill, and this is merely to put city real estate up to five years.

Mr. WINGO. May I suggest that the only actual change in the law is to strike out the present word "one" and insert the word "five" with reference to city property. That is all.

Mr. LUCE. I thank both gentlemen for explaining to the House the accuracy of my statement, and if their failure to understand me led them to think I had not made it I regret the state of their auditory facilities. [Laughter.]

I had brought to the attention of the House the fact that within the last five years no economic lesson has been taught to us with more force than that of the danger in frozen credits. This change adds to that danger by increasing the opportunity. The explanation given is that change should be made because State banks may now do a thing which experience has taught us to be dangerous to the public welfare, a thing that brought us nearer the brink of financial disaster than any happening since the Federal reserve system was created.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. LUCE. In view of the interruptions by the gentleman from South Carolina I ask for five minutes more.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to proceed for five additional minutes. Is there objection?

There was no objection.

Mr. LUCE. I think my sentence was broken when I started to say that in the 12 months ending January 2 of this year there were 750 bank failures in this country, and that 104 of them were of banks having a capital of more than $50,000. More than two failures a day, due largely to the sort of thing which you propose here to duplicate and triplicate, and, indeed, quintuplicate, for you extend a limit from one year to five years. The very cause of our troubles you would thus increase. Why, sir, the figures in the comptroller's report show that the time deposits of the national banks in this country in the last year amounted to $5,460,677,000. Now, one-third of that is $1,800,000,000, which you propose as one of the limits on the power of the national banks to lend on real estate five-year mortgages. With the present limitation of one year the amount lent is comparatively small; it amounts to only $188,897,000, a trifling amount in comparison with the total of loans and discounts.

You now invite precisely the thing that happened in the case of the five trust companies in Boston, to which I called your attention yesterday. They went on the rocks and so worked hardship to more than 100,000 persons because their directors had used much of the deposits in financing real-estate operations. You throw this door open to the national banks and tempt them to do the very thing which has brought disaster in so many cases. It strikes me you could hardly take a longer step in the wrong direction.

I reiterate what before I have said to the House. I do not think it our province to help one system of banks at the expense of another.

I do believe our duty is to protect the people, and when you have before you these illustrations of the injury that comes from permitting commercial banks to engage in real-estate business, in the financing of building operations, when you confront these examples how can you justify yourselves in encouraging the danger?

Time deposits in commercial banks are for the most part sums that have been put there for temporary purposes. They differ therein from the savings deposits in our mutual savings bank, which chiefly have been put aside for long retention. Most of the time deposits in national banks depositors expect will be subject to withdrawal on comparatively short notice.

It is said that five-year mortgages can be much more easily marketed than one-year mortgages. Granting this may be so, yet do gentlemen from the West and from the South not know the difficulties their banks have been under in the last few years in cashing any such obligations at all? Do you not know the hardships that have been brought to you by tying up your banking money in these forms of indebtedness that can not be quickly converted into cash?

Confronted as you are with the demand from your constituents that you help them, that you bring them laws which shall relieve them from such conditions, how do you explain a proposal that you freeze still harder the commercial banking credits of your communities? Will not some gentleman answer me and tell me how he justifies himself?

Mr. WEFALD. Does not the gentleman know that the Republican Party now claims that the farmer has been permanently relieved and that such bank failures will not happen again?

Mr. LUCE. I am not acquainted with any such claim on the part of the Republican Party or anybody else. Danger always exists in imperfect and unwise banking conditions.

Mr. WINGO. Mr. Chairman, my friend, the gentleman from Massachusetts [Mr. LUCE], misunderstood my query, and the gentleman certainly has no right to throw his challenge at the Members from the agricultural States, especially to those on this side of the House. Our record shows we are sound on this question of land loans.

The gentleman will recall that when you put into your present law the authorization to a national bank to lend for five years on farm land I declined to stultify myself, and I told the House and told my farmers it was pure political bunk, and that a demand-deposit commercial bank has no business tying up the funds of its depositors in land loans. That evil has wrecked more banks in the South and in the West than all the other evils of banking. It has been a curse to our part of the country. We fought for the Federal land-bank system, and we are fighting to-day for it to be permitted to function fully as we intended it, and that would relieve the commercial banks of the load of these frozen credits, and the gentleman need not come shaking his gory locks at us. The gentleman has brought in a bill here that authorizes branches, and yet he does not segregate capital.

I would like to see our committee undertake to reform the entire national banking system and undertake to divorce investment banking from commercial banking. I was opposed to your perpetual charter provision, because the sole excuse for it is that you want the commercial demand-deposit bank to engage as a perpetual trustee—a monstrosity, an absurd thing—for a demand-deposit bank; and the gentleman should have fought that provision which was so much sought for by the banks of New England and of the North.

We should separate demand-deposit commercial banking from investment banking. It is a crime to permit a national bank or a State bank or any other bank that receives demand deposits to tie such deposits up in long-time loans or trusts. They ought to be held liquid, and the way to do it is not to continually authorize these commercial deposit banks, under the plea of competition, to engage in investment banking. Let the man who wants a loan upon his land go to the investment banker, the land banker, the mortgage companies, or the trust company, or the savings institution, and not go to a bank whose very philosophy requires it to keep its assets liquid—a demand-deposit commercial bank.

Gentlemen have agreed to this because it meets the cry of the bankers of New York and elsewhere, but I am not going to stultify myself by saying I believe it is either sound or wise.

Mr. WILLIAMS of Michigan. Will the gentleman yield?

Mr. WINGO. I yield to the gentleman.

Mr. WILLIAMS of Michigan. I want to call the gentleman's attention and also the attention of the House to the fact that the largest amount that can be loaned in the aggregate on real estate by any bank under this bill would be one-third of its time deposits.

Mr. WINGO. That is too much.

Mr. WILLIAMS of Michigan. It is limited in that way by the bill.

Mr. WINGO. That is too much, and as a practical banker the gentleman knows it is too much. We ought to let them go to places that deal in investment securities and not go to a commercial bank. [Applause.]

Mr. BEEDY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman and gentlemen of the committee, I offer this pro forma amendment simply to inform the House and the members of the committee that when the House convenes I shall ask for a separate vote on the Hull amendments; and for the benefit of the Members who have not been able to be here, I want it distinctly understood that these amendments have never been presented for consideration before my committee and have never been approved by the committee.

I now withdraw my pro forma amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. LUCE].

The question was taken; and there were on a division (demanded by Mr. LUCE)—ayes 34, noes 79.

So the amendment was rejected.

Mr. McKEOWN. Mr. Chairman, I offer the following amendment.

Mr. McFADDEN. Mr. Chairman, I move that all debate on the amendments offered by the gentleman from Oklahoma and all amendments thereto close in five minutes.

The motion was agreed to.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma.

The Clerk read as follows:

Amendment offered by Mr. McKEOWN: Page 25, line 12, after the word "notes," insert the word "and," and after the word "debentures," insert a period and strike out line 13.

Mr. McKEOWN. Mr. Chairman, I want to ask the chairman of the committee what is meant by this language, "and the like commonly known as investment securities." I do not think this House wants to let down the bars and permit national banks or members of the Federal reserve system to go into the lending of money on speculative stocks and going into speculative business, taking the people's money and investing it in speculative business. I would like to know what that language means.

Mr. McFADDEN. That means that when a customer comes into a national bank and wants to buy bonds or investment securities the bank can fill his order. It is legalizing a common practice among banks to-day.

Mr. McKEOWN. I would like to know whether under that proposition they can lend money on speculative stocks.

Mr. McFADDEN. There is nothing in that provision that covers that.

Mr. McKEOWN. Can they do it?

Mr. McFADDEN. They can make loans secured by stock under other provisions of the law. This special provision does not deal with that subject at all.

Mr. McKEOWN. What is the difference between this language and the present law?

Mr. McFADDEN. This authorizes them to buy and sell investment securities—it is an addition to the law.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma.

The question was taken, and the amendment was rejected.

Mr. STEAGALL. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amendment offered by Mr. STEAGALL: Add at the end of H. R. 8887 a new section, as follows:

"SEC. 19. That the first paragraph of section 7 of the Federal reserve act be amended by changing the period at the end thereof to a semicolon and by adding the following: '*Provided, however,* That before any of the net earnings shall be paid to the United States as a franchise tax so much of the said net earnings as may be necessary shall be used to pay to any depositor of any insolvent member bank such portion of any deposit due said depositor from said member bank remaining unpaid where liquidation of said member bank has been completed during the year for which the earnings of Federal reserve banks are being distributed, and the Federal Reserve Board is authorized to make such rules and regulations as may be necessary and proper to carry this proviso into effect.'"

Mr. WILLIAMS of Michigan. Mr. Chairman, I make a point of order against the amendment.

Mr. STEAGALL. Will the gentleman withhold that? Mr. Chairman, I ask unanimous consent that all gentlemen have five days in which to extend remarks on this bill.

Mr. LONGWORTH. That can not be done in committee.

The CHAIRMAN. The point of order made against the amendment offered by the gentleman from Alabama is sustained.

Mr. McFADDEN. Mr. Chairman, I move that the committee do now rise and report the bill with amendments to the House, with the recommendation that the amendments be agreed to, and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. LEHLBACH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 8887) to amend an act entitled "An act to provide for the consolidation of national banking associations," approved November 7, 1918; to amend section 5136 as amended, section 5137, section 5138 as amended, section 5142, section 5150, section 5155, section 5190, section 5200 as amended, section 5202 as amended, section 5208 as amended, section 5211 as amended, of the Revised Statutes of the United States; and to amend section 9, section 13, section 22, and section 24 of the Federal reserve act, and for other purposes, and had directed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Under the rule the previous question is considered as ordered. Is there any vote demanded on a separate amendment?

Mr. BEEDY. Mr. Speaker, I demand a separate vote on the so-called Hull amendments.

The SPEAKER. Is a vote demanded on any other amendment? If not, the Chair will put the other amendments in gross.

The other amendments were agreed to.

The SPEAKER. The Clerk will report the Hull amendments.

The Clerk read as follows:

Page 5, line 14, after the word "located," strike out the period, insert a comma, and add the following: "and it shall be unlawful for any such consolidated association to retain in operation any branches

which may have been established subsequent to the approval of this act within the corporate limits of the city, town, or village in which consolidated association is located in any State which at the time of the approval of this act did not by law or regulation permit State banks or trust companies created by or existing under the laws of such State to have such branches."

Page 9, line 8, after the word "branches," strike out the period and insert a comma and add the following: "but it shall be unlawful for any national banking association having been converted into such association under the provisions of section 5154 of the Revised Statutes to retain in operation any branch wherever located which may have been established subsequent to the approval of this act in any State which did not by law or regulation at the time of the approval of this act permit State banks or trust companies, created by or existing under the laws of such State, to have branches."

Page 9, line 16, after the word "not" insert the words "at the time of the approval of this act." Also, on page 9, line 23, after the word "regulation" insert the words "at the time of the approval of this act."

Page 11, line 13, after the word "located," strike out the colon, insert a comma, and the following: "And it shall be unlawful for any such applying bank in any State which does not by law or regulation at the time of the approval of this act permit State banks or trust companies created by or existing under the laws of such States to have branches within the limits of municipalities in such States, to become such a stockholder of such Federal reserve bank, except upon condition that such applying bank relinquish any branches which it may have established subsequent to the approval of this act."

Also, on page 11, line 23, after the word "thousand," strike out the period, insert a colon, and add the following: *"And provided further,* That it shall be unlawful for any such member bank to establish a branch within the limits of the municipality where such bank is located in any State which does not by law or regulation at the time of the approval of this act permit State banks or trust companies created by or existing under the laws of such States that have branches within the limits of such municipalities in such States."

The SPEAKER. The question is on agreeing to the amendments.

The question was taken; and on a division (demanded by Mr. MORTON D. HULL) there were—ayes 129, noes 63.

So the amendments were agreed to.

The SPEAKER. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. BLACK of Texas. Mr. Speaker, I offer the following motion to recommit, which I send to the desk.

The Clerk read as follows:

Mr. BLACK of Texas moves to recommit the bill to the Committee on Banking and Currency with instructions to report it back to the House forthwith with the following amendments:

Page 5, line 11, after the word "which," insert the word "it." After the word "have," on the same line, insert the words "previously established." Strike out the balance of the line and all of lines 12, 13, and 14, so that the proviso as amended will read: *"And provided further,* That except as to branches in foreign countries or dependencies or insular possessions of the United States, it shall be unlawful for any such consolidated association to retain in operation any branches which it may have previously established."

Strike out all of section 7 and insert in lieu of the matter stricken out the following:

"SEC. 7. That section 5155 of the Revised Statutes of the United States shall be amended to read as follows:

"'SEC. 5155. It shall be lawful for any bank or banking association organized under State laws and having branches to become a national banking association in conformity with existing laws, and to retain and keep in operation its branches located in foreign countries or any dependency or insular possession of the United States but shall not retain any such branches located in the United States: *And provided,* That it shall be lawful for any national banking association having, prior to the approval of this act, acquired branches by virtue of having elected to retain such branches after having been converted from a State bank with branches into a national banking association, or through consolidation with such an association having such branches, to continue to operate any such branches.'"

On page 9, lines 9 to 25, inclusive; page 10, all of the page; lines 1 and 2 on page 11. Strike out all of section 8.

Page 11, lines 3 to 25, inclusive; and on page 12, lines 1 to 6, inclusive; strike out all of section 9 and insert in lieu of the matter stricken out a new section, as follows:

"SEC. 9. That the first paragraph of section 9 of the Federal reserve act be amended by adding at the end thereof two provisions and a new paragraph, to read as follows: '*Provided,* That on and after the approval of this act the board shall not permit any such applying bank to become a stockholder of such Federal reserve bank except upon condition that such applying bank relinquish any branches which it may have in operation in the United States, but may retain any branches located in foreign countries or in dependencies or insular possessions of the United States. *Provided further,* That no member bank shall after the approval of this act be permitted to establish a branch except in foreign countries or dependencies or insular possessions of the United States. The term "branch or branches" as used in this section shall be held to include any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State or Territory of the United States or in the District of Columbia at which deposits are received or checks cashed or money loaned, but shall not include any branch established in a foreign country or dependency or insular possession of the United States.'"

Mr. MCFADDEN. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the motion to recommit.

Mr. WINGO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 90, nays 236, answered "present" 1, not voting 104, as follows:

[Roll No. 27]

YEAS—90

Allen	Garber	Linthicum	Rathbone
Allgood	Gardner, Ind.	Lowrey	Rayburn
Almon	Garner, Tex.	Lozier	Romjue
Bankhead	Garrett, Tenn.	McClintic	Rubey
Beck	Garrett, Tex.	McDuffie	Sabath
Berger	Gilbert	McKeown	Salmon
Black, Tex.	Goldsborough	Major, Ill.	Sanders, Tex.
Blanton	Hammer	Major, Mo.	Schneider
Box	Haugen	Milligan	Sears, Fla.
Boyce	Hayden	Montague	Sinclair
Browne, Wis.	Hill, Ala.	Moore, Ga.	Steagall
Browning	Hill, Wash.	Moore, Va.	Stengle
Busby	Howard, Nebr.	Morehead	Strong, Kans.
Cannon	Howard, Okla.	Morrow	Swank
Carew	Huddleston	Nelson, Wis.	Taylor, Colo.
Carter	Humphreys	Oldfield	Thomas, Ky.
Connally, Tex.	Jeffers	Oliver, Ala.	Thomas, Okla.
Cooper, Wis.	Johnson, Tex.	Park, Ga.	Tillman
Deal	Jones	Parks, Ark.	Voigt
Dickinson, Mo.	Jost	Peavey	Wefald
Driver	Keller	Quin	Wilson, Miss.
Evans, Mont.	Kvale	Raker	
Frear	Lankford	Rankin	

NAYS—236

Abernethy	Davis, Tenn.	James	Murphy
Ackerman	Dempsey	Johnson, Ky.	Nelson, Me.
Aldrich	Dickinson, Iowa	Johnson, S. Dak.	Newton, Minn.
Andrew	Doughton	Johnson, Wash.	Newton, Mo.
Anthony	Dowell	Johnson, W. Va.	O'Connor, La.
Aswell	Doyle	Kearns	O'Connor, N. Y.
Ayres	Drane	Kelly	Oliver, N. Y.
Bacharach	Drewry	Kendall	Parker
Bacon	Dyer	Kent	Peery
Barbour	Elliott	Ketcham	Quayle
Barkley	Evans, Iowa	Kincheloe	Ragon
Beedy	Fairfield	Kindred	Rainey
Beers	Faust	King	Ramseyer
Bell	Fenn	Kopp	Reece
Bixler	Fish	Kurtz	Reed, N. Y.
Black, N. Y.	Fisher	Lanham	Robinson, Iowa
Bland	Fitzgerald	Larsen, Ga.	Rouse
Boies	Fleetwood	Lazaro	Sanders, Ind.
Boylan	Foster	Lea, Calif.	Sanders, N. J.
Brand, Ga.	Free	Leach	Sandlin
Brand, Ohio	Freeman	Leatherwood	Scott
Briggs	French	Leavitt	Seger
Brumm	Frothingham	Lehlbach	Sherwood
Bulwinkle	Fuller	Lindsay	Shreve
Burdick	Funk	Lineberger	Simmons
Burtness	Gallivan	Logan	Sinnott
Burton	Gambrill	Longworth	Snell
Byrnes, S. C.	Gasque	Luce	Speaks
Byrns, Tenn.	Gibson	Lyon	Spearing
Cable	Gifford	McFadden	Sproul, Ill.
Campbell	Green	McKenzie	Sproul, Kans.
Chindblom	Greenwood	McLaughlin, Mich.	Stalker
Christopherson	Griest	McLaughlin, Nebr.	Stedman
Clarke, N. Y.	Guyer	McReynolds	Stephens
Cleary	Hadley	McSwain	Stevenson
Cole, Iowa	Hall	McSweeney	Summers, Wash.
Collier	Hardy	MacGregor	Sumners, Tex.
Colton	Hastings	MacLafferty	Sweet
Connery	Hawes	Madden	Swing
Connolly, Pa.	Hawley	Magee, N. Y.	Swoope
Cook	Hickey	Magee, Pa.	Taber
Cooper, Ohio	Hill, Md.	Manlove	Tague
Cramton	Hoch	Mansfield	Taylor, W. Va.
Crisp	Holaday	Mapes	Temple
Crosser	Hudson	Mead	Thatcher
Crowther	Hudspeth	Merritt	Thompson
Cullen	Hull, Iowa	Michener	Tilson
Cummings	Hull, Tenn.	Miller, Wash.	Timberlake
Dallinger	Hull, Morton D.	Minahan	Treadway
Darrow	Hull, William E.	Moore, Ohio	Tucker
Davis, Minn.	Jacobstein	Moores, Ind.	Tydings

Underhill	Ward, N. Y.	Welsh	Wood
Underwood	Ward, N. C.	White, Kans.	Woodruff
Valle	Wason	White, Me.	Woodrum
Vestal	Watkins	Williams, Ill.	Wright
Vincent, Mich.	Watres	Williams, Mich.	Wurzbach
Vinson, Ga.	Watson	Williams, Tex.	Wyant
Vinson, Ky.	Weaver	Williamson	Yates
Wainwright	Weller	Wilson, La.	Zihlman

ANSWERED "PRESENT"—1

Wingo

NOT VOTING—104

Anderson	Edmonds	Michaelson	Richards
Arnold	Fairchild	Miller, Ill.	Roach
Begg	Favrot	Mills	Robsion, Ky.
Bloom	Fredericks	Mooney	Rogers, Mass.
Bowling	Fulbright	Moore, Ill.	Rogers, N. H.
Britten	Fulmer	Morgan	Rosenbloom
Browne, N. J.	Geran	Morin	Schafer
Buchanan	Glatfelter	Morris	Schall
Buckley	Graham	Nolan	Sears, Nebr.
Butler	Griffin	O'Brien	Shallenberger
Canfield	Harrison	O'Connell, N. Y.	Sites
Casey	Hersey	O'Connell, R. I.	Smith
Celler	Hooker	O'Sullivan	Smithwick
Clague	Kerr	Paige	Snyder
Clancy	Kiess	Patterson	Strong, Pa.
Clark, Fla.	Knutson	Perkins	Sullivan
Cole, Ohio	Kunz	Perlman	Taylor, Tenn.
Collins	LaGuardia	Phillips	Tincher
Corning	Lampert	Porter	Tinkham
Croll	Langley	Pou	Upshaw
Curry	Larson, Minn.	Prall	Vare
Davey	Lee, Ga.	Purnell	Wertz
Denison	Lilly	Ransley	Wilson, Ind.
Dickstein	McLeod	Reed, Ark.	Winslow
Dominick	McNulty	Reed, W. Va.	Winter
Eagan	Martin	Reid, Ill.	Wolff

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On the vote:

Mr. Wingo (for) with Mr. Prall (against).
Mr. Celler (for) with Mr. Harrison (against).
Mr. LaGuardia (for) with Mr. Kiess (against).
Mr. Shallenberger (for) with Mr. Bloom (against).
Mr. Fulmer (for) with Mr. Canfield (against).
Mr. Schafer (for) with Mr. O'Connell of New York (against).
Mr. Begg (for) with Mr. Curry (against).

Until further notice:

Mr. Morgan with Mr. Kerr.
Mr. Winslow with Mr. Martin.
Mr. McLeod with Mr. Arnold.
Mr. Purnell with Mr. Buchanan.
Mr. Denison with Mr. Collins.
Mr. Butler with Mr. Dominick.
Mr. Patterson with Mr. Kunz.
Mr. Reid of Illinois with Mr. Upshaw.
Mr. Sears of Nebraska with Mr. Hooker.
Mr. Strong of Pennsylvania with Mr. Richards.
Mr. Tincher with Mr. Croll.
Mr. Vare with Mr. Mooney.
Mr. Mills with Mr. Bowling.
Mr. Lampert with Mr. Corning.
Mr. Graham with Mr. Favrot.
Mr. Fairchild with Mr. Griffin.
Mr. Britten with Mr. Smithwick.
Mr. Perkins with Mr. Pou.
Mr. Rogers of Massachusetts with Mr. Rogers of New Hampshire.
Mr. Paige with Mr. Davey.
Mr. Clague with Mr. O'Connell of Rhode Island.
Mr. Phillips with Mr. Sites.
Mr. Robsion of Kentucky with Mr. Geran.
Mr. Michaelson with Mr. Sullivan.
Mr. Morin with Mr. Reed of Arkansas.
Mr. Wertz with Mr. O'Sullivan.
Mr. Smith with Mr. Wilson of Indiana.
Mr. Roach with Mr. Glatfelter.
Mr. Porter with Mr. Dickstein.
Mr. Ransley with Mr. Lee of Georgia.
Mr. Fredericks with Mr. Wolff.
Mr. Taylor of Tennessee with Mr. Eagan.
Mr. Moore of Illinois with Mr. Fulbright.
Mr. Winter with Mr. Clancy.
Mr. Hersey with Mr. O'Brien.
Mr. Larson of Minnesota with Mr. Lilly.
Mr. Perlman with Mr. Clark of Florida.
Mr. Cole of Ohio with Mr. Morris.
Mr. Edmonds with Mr. Casey.
Mr. Knutson with Mr. Browne of New Jersey.
Mr. Tinkham with Mr. McNulty.
Mr. Snyder with Mr. Buckley.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the Speaker announced the ayes appeared to have it.

Mr. BLANTON. I ask for a division.

Mr. SABATH. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. Twenty-six gentlemen have arisen, not a sufficient number.

Mr. BLANTON. Mr. Speaker, I demanded a division.

SEVERAL MEMBERS. Too late.

The SPEAKER. There is no division on Members rising.

Mr. BLANTON. I demanded a division on the passage of the bill before the demand for the yeas and nays. I rose and asked for a division.

The SPEAKER. The gentleman demands a division.

The House again divided; and there were—ayes 172, noes 65.

So the bill was passed.

On motion of Mr. MCFADDEN, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. VESTAL. Mr. Speaker, my colleague, Mr. CURRY, is ill and asked me to make this report to the House, that if he were able to have been here at this time he would have voted for this bill. He wanted that record made.

TREASURY AND POST OFFICE DEPARTMENTS APPROPRIATION BILL—CONFERENCE REPORT

Mr. MADDEN. Mr. Speaker, I present a conference report for printing under the rule.

The SPEAKER. The gentleman from Illinois presents a conference report on a bill the title of which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 10982) making appropriation for the Treasury and Post Office Departments for the fiscal year ending June 30, 1926, and for other purposes.

The SPEAKER. Ordered printed under the rule.

FAVORING AN ADDITIONAL FEDERAL JUDICIAL DISTRICT FOR NORTH CAROLINA

Mr. ABERNETHY. Mr. Speaker, I ask unanimous consent to extend my remarks on an additional Federal district in North Carolina.

The SPEAKER. The gentleman from North Carolina asks unanimous consent to extend his own remarks on an additional Federal district in North Carolina. Is there objection? [After a pause.] The Chair hears none.

Mr. ABERNETHY. Mr. Speaker, under leave to extend my remarks, I am inserting in the RECORD facts and figures compiled by my colleague, Hon. HALLETT S. WARD, Member of Congress from the first North Carolina district, favoring an additional Federal judicial district for the State of North Carolina:

The information transmitted to me from the Department of Justice, containing, as it does, the names and numbers of all the cases pending in the State, and other features, creates such unnecessary bulk that it seems to me it is hardly fit to be printed in the RECORD in its present shape—I shall be glad to show it to you—and I therefore give you, I think, a fully sufficient summary, as follows:

The eastern district as now constituted contains:

Civil cases

Raleigh	169
Wilson	5
Fayetteville	4
Elizabeth City	26
Washington	24
New Bern	28
Wilmington	139
Making a total of	415

Bankruptcy cases are not given, but their numbers may be reckoned from those of the western district, where there are 163.

The statistics show these civil cases to date back to 1911 in their origin, but they have accumulated, especially in 1923 and 1924.

Criminal cases for the eastern district are as follows: At issue 148, warrant docket 145, making a total of 293.

The western district as now constituted contains:

Civil cases

Greensboro	113
Asheville	51
Wilkesboro	2
Charlotte	89
Making a total of	255
Bankruptcy cases	163

Criminal cases

Asheville	332
Charlotte	182
Greensboro	246
Salisbury-Statesville	188
Wilkesboro	215
Making a total of	1,163

EXTENSION OF REMARKS

Mr. MCFADDEN. Mr. Speaker, I ask unanimous consent that all Members may have three days in which to extend their own remarks in the RECORD on this bill.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent that all Members may have three days in which to extend their own remarks on this bill. Is there objection?

Mr. CHINDBLOM. Reserving the right to object, it will be the Members' own remarks?

The SPEAKER. The Chair so stated. Is there objection? [After a pause.] The Chair hears none.

THE M'FADDEN BANKING BILL

Mr. RAINEY. Mr. Speaker, I expect to vote for this bill, the Hull amendments having been adopted. These amendments had the indorsement of the American Bankers' Association, and in my judgment they reduce to a minimum the dangers of branch banking as presented by the original bill. Under the leave given I print here in the RECORD certain questions I submitted to Mr. Charles S. Castle, of Chicago, Ill., the representative in Illinois in this matter of the American Bankers' Association, and I print his answers to the same:

DECEMBER 1, 1924.

Mr. CHARLES S. CASTLE,
Standard Trust & Savings Bank,
112 West Adams Street, Chicago, Ill.

MY DEAR MR. CASTLE: I am in receipt of letters from Hon. M. F. Dunlap, president of the Ayers National Bank, of Jacksonville, and also in receipt of another letter from Mr. W. S. Rearick, of the firm of Skiles Rearick & Co., bankers, Ashland, Ill., advising me that they have been requested to obtain an expression from me on the subject of the McFadden-Pepper bill. I have also heard from Mr. B. C. Hodges, of the Carrollton Bank, Carrollton, Ill., on the same subject. All of them are favorably inclined to the bill for the reason that the American Bankers' Association is for it. I have not yet studied the bill, but I am submitting to you the following questions and would be very glad, indeed, to have your reply to the same:

1. Does the bill provide for branch banking?

2. If the bill provides for branch banking, does it permit branch banking only in States which have laws permitting banks to engage in branch banking?

3. Does the American Bankers' Association favor branch banking?

4. If the American Bankers' Association favors branch banking as to national banks, in order to be consistent will it not attempt, if this bill becomes a law, to induce State legislatures to pass laws permitting State banks to engage in branch banking?

5. If the legislature should permit the State banks in any State to engage in branch banking, then under the McFadden-Pepper bill also national banks could engage in branch banking. Am I right about this? In this event we would then have a system of branch banking firmly established in Illinois and perhaps in all the States.

6. Under a system of branch banking would it not be possible for a great bank in Chicago with deposits of fifty or a hundred million dollars to establish an office in a small town in my congressional district, operated with very slight overhead expense, provided branch banking was hereafter completely and logically developed?

7. If the above proposition is possible, would this not greatly injure the business of country banks?

8. In the judgment of the American Bankers' Association would it be better to assemble bank deposits in the cities and take away from rural communities the moneys which have been earned by farmers, merchants, and mechanics in these communities and divert it to the cities?

9. Do you not think that rural communities ought to be permitted to retain their own money in their own banks, where it would be readily available for the transaction of business in the several communities?

10. Do you think large city banking institutions will be as sympathetic in the matter of taking care of the business of farmers and merchants in the communities in my congressional district as the bankers who are now doing business there?

11. Is it not true that the principal provision in the McFadden-Pepper bill which appeals to your association is the branch-banking proposition? It will greatly help me in reaching a conclusion if you will advise me as to whether or not the American Bankers' Association favors branch banking, and as to whether or not the McFadden-Pepper bill is not the first step in the direction of establishing this system in the United States.

12. Does not section 5190 of the Revised Statutes of the United States as rewritten in the McFadden-Pepper bill permit the establishment by national banks, not of branch banks alone, but of "mere offices" within the territory permitted with the privilege of accepting deposits and cashing checks?

13. If the above is true, does not this greatly extend the possibilities of branch banking?

14. Is it not true that under the section above mentioned as rewritten, banks in States having over 100,000 population can establish as many "mere offices" in the territory in which they operate as they may want to establish for the purpose of receiving deposits and cashing checks?

15. Under this section could not a great bank in Chicago or New York establish as many offices within its territory as it might desire to establish—a thousand of such offices if it elects to do so?

16. If this is true, would not this have the effect of greatly increasing the financial power of a few very large banks in great cities at the expense of all the smaller banks in the great cities, and would not this be a dangerous entering wedge in our entire banking system which might have the effect of crushing out of existence smaller banks in the great cities?

17. Why should large banks in Chicago and New York and other cities be permitted to establish as many "suboffices" within the corporate limits of said cities as they may desire to establish, while a bank in a city with a population of from 50,000 to 100,000 can only operate two such "suboffices," and a bank in a city of from 25,000 to 50,000 population can operate only one such "suboffice"?

18. Upon what theory does the American Bankers' Association proceed when it favors a bill which permits branch banking in cities of 25,000 and over and does not permit it in cities under 25,000?

19. While section 8 of the McFadden-Pepper bill purports to prohibit a national bank from operating a branch or "suboffice" beyond the corporate limits of the municipality in which it operates, is it not in effect a very great extension of the branch-banking privilege which may lead to subsequent legislation which might permit a big bank to establish branch banks outside the municipalities in which it is located?

20. Is it not true that branch banks are now operated by Federal reserve member banks outside of the municipalities in which the principal offices are located? And does not section 9 of the McFadden bill protect and extend indefinitely the life of the branches of these banks operating outside of the municipalities in which they operate?

21. If your answer to the above is yes, is it not true that the bill attempts to perpetuate indefinitely an existing dangerous banking system?

22. If your answer to the last question is yes, will it not be true, in your judgment, that the next legislation demanded by the American Bankers' Association will be legislation which will give to banks the privilege now enjoyed by the excepted banks?

23. Can you give me the names of member banks in the Federal reserve system which now maintain branch banks or "suboffices" outside of the municipalities in which they operate, and how many branches or "suboffices" and what branches or "suboffices" do these Federal reserve banks now conduct outside of the municipalities in which they operate?

You will greatly assist me in my study of the question which I will undertake soon, if you can find time to answer fully the above questions.

Very truly yours,

HENRY T. RAINEY.

STANDARD TRUST & SAVINGS BANK,
Chicago, December 11, 1924.

HON. HENRY T. RAINEY,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN RAINEY: Replying to yours of December 1, and responding to your inquiries in the order made concerning the McFadden-Pepper bill with Hull amendments:

1. It is the aim of this bill to check branch banking at the point where it now exists and to prevent further expansion of the system.

2. The bill permits branch banking only in States which now have laws permitting it.

3. In replying to this question I beg to draw your attention to the copy of the resolution adopted by the association at its meeting in this city in September last.

4. It is my understanding and belief that the association does not favor branch banking, and accordingly will not be interested in securing State legislation in favor of it.

5. In the event of the passage of the bill a national bank in Illinois, for instance, could not have branches in future even if Illinois should later on change the laws in such manner as to allow State banks to establish branches. The Hull amendment to section 8 and the annotation explains such a situation.

6. I believe it would be possible for a large bank in Chicago, New York, or perhaps other large centers, to do exactly what you suggest which is the very thing we are aiming to prevent, and I am firm in the belief that the McFadden-Pepper bill with the Hull amendments, if passed, will prevent the establishment of any branch bank in the State of Illinois.

7. If and when branch banks are permitted in this or any other State, I strongly feel that it would operate to the detriment of the country banks.

8. I am a strong advocate of local banking service and thoroughly believe a branch bank would be a great disadvantage to the farmer

or any local customer as compared with the service rendered by an independent institution.

9. I am a firm believer in local communities retaining funds in their own localities available for business transactions at home.

10. No.

11. There are a number of provisions in the McFadden bill which are designed to improve the national bank system and to continue a sound foundation for the Federal reserve system. On these provisions the entire association is agreed. The branch bank provisions, prior to the Hull amendments, were the ones upon which our association was divided. The Hull amendments bring the association into agreement. The American Bankers' Association does not favor branch banking and the McFadden bill is not the first step in the direction of establishing a branch-bank system in the United States. The McFadden bill, with the Hull amendments, is designed to check the further growth of branch banking. A reading of the resolution of the American Bankers' Association and the bill with annotations will answer this question more in detail.

12. Section 5190, United States Revised Statutes, as rewritten in the McFadden bill, will simply permit national banks to have city branches where State banks now have branches, and it includes in the term "branches" offices or agencies. But this right to branches is limited under the Hull amendment to States which now allow State banks to have branches. If, in the future, a State which is now a nonbranch bank State, permits State bank branches, National banks can not have them. The purpose is to line up the National banks in opposition to any future extension of branch banks in such States.

13. The bill is not intended to nor does it extend the possibilities of branch banking, but checks it where it now is.

14.

15. Under the provisions of section 5190 national banks are permitted only to establish offices in the cities in which the banks are located, but not to establish even offices outside the city limits.

16.

17. I think a distinction should be made between branches within the city limits and state-wide branches. In the one case it is for the convenience of customers in location of the branch; in the other, a customer can not get at the main bank, but must deal with the local manager, who must get authority from the home office, which may not know the needs of the local customer. The antibranch bank members of our association have considered all this and do not regard the proposed 5190 as a menace.

18. The American Bankers' Association, as I understand, proceeds on the theory that in a city of less than 25,000 there is no need for a branch, that in cities of between 25,000 and 50,000 one branch is sufficient, and between 50,000 and 100,000 two branches are sufficient.

19. Section 8 of the McFadden bill simply gives national banks the same privileges that State-bank competitors now have. You can not wipe out the city branches of State banks; in justice, national banks should have equal privilege, but they are limited to this. The antibranch bankers have considered the point that granting this limited city branch-bank privilege to national banks might be an entering wedge to extension of branches outside the city, but have concluded that this will not lead to subsequent legislation permitting the establishment of branches of national banks outside the municipalities in which located.

20.

21. State members of the Federal reserve system in California and a few other States now have state-wide branches. Section 9 permits them to retain these branches, but they can not have any more; and if a State bank with state-wide branches hereafter seeks to enter the system, it must give up its state-wide branches. See note to section 9 in circular.

22. In my judgment the American Bankers' Association will not seek further legislation to give to all banks the privilege now enjoyed by the State-bank members which have state-wide branches. The American Bankers' Association, as shown by its resolution, is unalterably opposed to branch banking. The McFadden bill seeks to check it where it is and prevent its further growth.

23. I am advised that the information requested is contained in printed hearings before the Committee on Banking and Currency on the original McFadden bill, H. R. 6855, under dates of April 9, 15, and 18, 1924. A copy of these hearings will be furnished on application to the clerk of the House Committee on Banking and Currency.

I ask your indulgence for not replying at an earlier date and trust the above may be of some small assistance to you.

Yours very truly,

C. S. CASTLE,
State Chairman Illinois F. L. C., A. B. A.

Mr. SINCLAIR. Mr. Speaker, I wish to set forth some of the reasons why I am opposed to the pending measure, commonly known as the McFadden bill.

CLASS LEGISLATION

There has been a good deal said in this Congress at one time or another on the subject of the evils of legislating in favor of certain industries or classes. In the last session a good many of us from the agricultural sections tried to secure the enactment of legislation to assist in the restoration of farming to a paying basis. A great hue and cry was raised by the opposition that this would be "class legislation." Perhaps this had as much to do as anything else in defeating our efforts. To my mind, the present bill is the most flagrant attempt at class legislation which we have had in this Congress. Under the guise of stamping out the evils of "branch banking," the real purpose of the bill is to grant additional special favors to the big national banks in the large commercial centers of the country. Here is the actual situation confronting us. Branch banking has been permitted and encouraged in the East, particularly in the State of New York, and in the Far West, especially in California.

It has assumed alarming proportions in these two sections, and is fast driving the small independent bankers there out of business. It is recognized as a danger in the banking world. If permitted to spread, it will change our whole independent system of banking, and it will not be many years before we will find ourselves under a system such as Canada and most of the European countries have. No one here contends that this would be desirable. All agree that the present American system of banking is superior to that of any in the world. Why, then, pave the way for a change which will inevitably destroy this system?

A CURE FOR THE EVIL?

Now, then, in order to cure the evil which, it is admitted, has already assumed alarming proportions in the localities mentioned, the Committee on Banking brings in this bill. They tell us that this will check the spread of the epidemic. We now have branch banking, confined to State banks, in two sections of the country. It is not permitted in the Federal system. The Congress is helpless to legislate against it in State banks, but we can, and should, keep it out of the national banks and confine it to the States alone. Spreading the germs of a disease never cured the disease as far as I know, and it will not do it in this case. Allowing national banks to engage in the same line of enterprise in order, as it is contended, that they may compete with State institutions already in this business, is not going to put a stop to it. In other words, instead of prohibiting national banks from embarking on such an enterprise and using the great power of the Federal reserve system to stamp out this evil in the State systems—and I believe this could be done—if this bill is enacted we are going to permit national banks to enter into competition with State banks in branch banking, thereby hoping to "curb the spread." There is not the slightest doubt but that this plan will increase the spread, rather than check it. We will have branch banking in both the Federal and State systems, whereas we now have it only in the latter.

This bill offers no restriction, but rather a license to spread its evil web all over the country, finally entangling in its meshes all of our independent country banks, both State and national, and putting them out of business, except as the cat's-paws of the big institutions in the money centers. As a representative of the country bankers, I protest against this scheme.

DISCRIMINATION AGAINST COUNTRY BANKS

The present economic development of this great Nation has been due in a large part to our independent system of banking, coupled with the industry and integrity of our people. It is a democratic system, suited to our needs. The small independent bank in a remote community deserves the same careful consideration at the hands of Congress as does the big, wealthy one in the large city. In my judgment it deserves more consideration, for the existing banking laws favor the big bank at the expense of the little one. The Federal reserve system is already sufficiently monopolistic. It will become more so if this bill is passed. Instead of taking such a step, we should enact legislation that will prohibit any bank in the United States from having and operating branches. This can be done by forcing those national banks which came into the system with branches to liquidate within a reasonable time, say three or five years after the passage of the act. Or, if State banks have branches, deny them the advantages of the Federal reserve system. Or, third, if the two remedies already suggested are not sufficient, then refuse them the use of the United States mails. If we are to retain the system of banking which has served us so well for these many years, we must protect our country banks, for they are indispensable to the development of our rural communities. I repeat that the effect of the passage of the McFadden bill will be to cripple them and finally force them out of business.

I have carefully followed the debate on this measure and have read a great deal of literature in its favor. I have yet

to hear or read a word which might be construed in the interests or favoring the customers of the banks. No one has said anything about affording them additional protection, lowering their interest rates or other charges paid to banks in the course of business. There has been a good deal of talk about saving the national banks from the sharp competition of State banks, that national banks need this legislation in their favor. Yet, at a time when agriculture, our basic industry, has been prostrated by the greatest financial depression of a generation, when farmers have been bankrupted by thousands, we find the national banks enjoying the greatest profits in their history. Dividends of national banks reached their highest point in 1923. Net profits amounted to over $293,000,000. The year 1924 showed only $4,000,000 less. In the face of this, the plea for the enactment of the McFadden bill on the grounds of saving the national banks falls rather flat.

OTHER FEATURES OF THE BILL

There is no question but that this measure embodies some good features. Among them may be mentioned authority to lend money on city real estate first mortgages for five years instead of for one year, as at present; consolidation of State and national banks under a national charter; organization of national banks with $100,000 capital in outlying sections of large cities; extension of the authority of the Federal reserve banks to rediscount eligible paper to an amount in excess of 10 per cent of the capital and surplus of the applying member bank; right to engage in a safe-deposit business to the extent of owning stock in a safe-deposit corporation carrying on business in the bank building; punishment under Federal law of crimes against banks which are members of the Federal reserve system which are punishable now only under State laws. However, excellent as some of these provisions are, they should not be made the vehicle for carrying the branch-banking proposal, and it is admitted by the proponents of the measure that the whole purpose of this legislation is to enlarge the scope of branch banking by permitting it in a limited form within the Federal system.

OPINIONS OF INDEPENDENT BANKERS ON M'FADDEN BILL

With a view to finding out the opinion of the bankers of my district on this bill, and their wishes with reference to its passage, I sent to every one of the banks in the district a copy of the bill with a statement of the principal arguments for and against it. Of the replies received not one has requested me to support the measure. Some have stated that they are "opposed to the McFadden bill either with or without the Hull amendments." All have expressed opposition to branch banking "in any form." I believe there is not one but sees the handwriting on the wall if such a bill is passed. The independent country bank as such must cease business, not this year nor next, but in the course of the next 10, 15, or 20 years. That this will be a catastrophe, not only to the banks themselves, but more particularly to the communities which they serve goes without saying. Without going into this in detail I need only point out that the interests of the independent banker and those of the community are the same. He has at heart the welfare of his town and the surrounding country. Whatever helps the people there helps his business also. With the establishment of a system of branch banking the main function of the country branch will be to collect deposits and serve as a feeder of funds to the head institution in the large city. The country banker will be no more than a clerk sent out from the city to represent his firm.

It is the small, independent banker who needs our help. We have seen over 1,500 banks in the great Mississippi Valley region close their doors because of a deflation policy that depressed the prices of their securities; a policy that brought ruin to thousands of good farmers and business men, and that decreased the value of agricultural property over $20,000,000,000 in the short space of two years. This Congress might well direct its attention toward preventing the recurrence of such a condition instead of engaging in the doubtful business of trying to increase the profits of a business already enjoying unparalleled prosperity. If we are going to have class legislation, let it be for the class which needs it most, the farmers, and for those directly dependent upon their success, the independent country bankers. We should be doing something to lower the rates of interest to the productive industries, especially agriculture. The present so-called prosperity of the farmer is not permanent. It is due to a world shortage of the bread-grain crops, and the present advance in prices is only temporary. Should this year see a return to normal world production of these grains it will mean a drop in prices next year quite as great as the advance has been this year, with consequent losses in business. There can be no permanent prosperity for agriculture until stabilized prices of farm products can be obtained, and I repeat, as I have said in the past, that Congress has no more important duty than to take steps to insure this.

Mr. SCHNEIDER. Mr. Speaker, the McFadden bill is of greater significance than mere legislation. It should, and I hope does, command a most solemn and serious consideration from every legislator and from every point of view. It is not only claiming the attention of the bankers and financial interests of this Nation, but, gentlemen, this question bears the silent watching of the masses, the great citizenry of this land.

Banking is no longer a man's private affair. No; the life and welfare of communities, States, yes, the Nation, depend upon banking and credit. Banking, therefore, is a community interest, if you please. It is a public interest, and therefore naturally and justly so does Congress and the States prescribe how those engaged in this public business shall conduct themselves in deference to the interests of the public. It therefore behooves us to analyze the effects of this bill first, and primarily upon the interests of the American public.

Money, the medium of exchange in whatever form it may have existed, is a very old institution indeed. Modern life is even more dependent upon it for its very existence. Access to money and credit upon reasonable terms means growth and prosperity to business, independence to the farmer, happiness to individuals in so far as money can provide the things lacking and desired by progressive and intelligent society. There is no one who will dispute the important and powerful rôle that money and credit play to-day in the life of the individual, the community, State, Nation, or the world.

Our banking institutions are the keepers of this very coveted and very precious element that makes the machinery of society go. To the business man who is threatened with possible bankruptcy, access to credit means a new lease on life. To the man who sees an opportunity to expand his capacity for production and service, to have the necessary capital, makes it possible for him to see the fruition of his plans. The farmer, too, deeply feels the necessity of money and credit; often a little credit would make it possible for him to hold onto the products of his year's toil until market prices are favorable, and thus he may realize his just due for his labors. How many a farmer, faced by this perplexing problem, too often finds himself helpless when it comes to getting this needed credit, or if he does get it, it is only to find himself paying a pound of flesh to some parasite of society.

The power of money and credit oftentimes is used to ensnare these toilers of the land, and when they have sufficiently overburdened them with obligations these money lenders finally take away every vestige of property that these farmers have and reduce them to the position of serfs, as in the feudal ages, working for their landlords, the financial czars of this country.

Money and credit to be had at reasonable terms and at the proper time often means everything. Starvation, pestilence, famine, sickness—yes; even death—can often be averted with a little financial assistance. The city wageworker when he finds himself suddenly without a job faces starvation for himself as well as his family. And it may not only mean starvation but may also result in all else that finally leads to despair and ruin.

I portray the dependency of all classes of society upon money and credit in this simple way in order to reveal as forcibly as I can the importance of our action on the McFadden bill upon the lives of our people.

There is a unanimity of opinion in the interpretation of the purposes of this bill. While some may say that it is to save our Federal reserve system, which idea I do not share, everyone agrees that the plan, if adopted, will mean the establishment and spread of national branch banking. Of course, the bill itself only authorizes national banks to carry on branch banking in those States where the laws now permit State banks to carry on branch banking but it will be only a matter of time, should this bill be passed, when branch banking will have reached into every State in the Union.

Again I ask, What does this mean to the life of the Nation and the American public? What are the possible consequences, either for good or bad, should this legislation become a law? The money power of Wall Street is already felt in every community and hamlet of the Nation. Allow our national banks to go into branch banking and you create an octopus with the necessary power to place its strangle hold on the individual and collective freedom that our forefathers meant to preserve for us and for all time.

I say, allow branch banking and it means the further concentration of this money power into the hands of a few money

czars. I am glad that the small banker and the small business man are beginning to see this common enemy which the farmer and laborer have long sensed and have been trying to fight off like the oncoming of eternal darkness.

The American Bankers Association at its last meeting adopted a resolution condemning branch banking in no uncertain terms. The nature of that resolution expressing the indignation of the American Bankers Association toward branch banking is based, quoting the resolution:

Not on a narrow, selfish basis, but on the broad basis of public welfare. The independent banking system, while it has served the country well, has not concentrated either the country's wealth or power in the hands or in the control of a few, as must inevitably follow if branch banking is carried to its logical conclusion. Such concentration is not consistent with the genius of American institutions and ideals. Those who are aiming to bring about such concentration of wealth and power, thereby depriving the individual of the opportunity which has existed heretofore in engaging in his chosen vocation, and thus creating a class of the very rich, and leading to the destruction of that large middle class, always necessary in a democracy, are drawing upon themselves certain destruction, as control by the few in any line of human endeavor is contrary to American ideals and will never be tolerated by America.

The coercive, monopolistic, and destructive power of branch banking is also found very positively expressed in the language of the Hon. Henry M. Dawes himself, Comptroller of the Currency, when he states:

The coercive power of the branch banker bent on expansion is very great.

The development of America is dependent on nothing else more than independent unit bankers of vision and courage.

That branch banking "is offensive because the resources which the community creates in the form of deposits are controlled by nonresidents."

That it is, "absentee control of local finance."

In its essence monopolistic, destructive of home rule, un-American. Undermines community spirit.

I hope that the courageous and valiant attempts by organized labor and organized farmers and the progressive minded people of this Nation to regain and preserve the heritage of freedom may in the not far distant future be crowned with victory. Let us, who are their chosen servants, truly serve and this we can do best now by preventing the passage of this bill and thus avert the evils of branch banking.

EULOGIES

Mr. ZIHLMAN. Mr. Speaker, I ask unanimous consent that Sunday, February 1, be set aside for the delivery of addresses on the life, character, and public services of Hon. SIDNEY E. MUDD, late a Representative from the State of Maryland.

The SPEAKER. The gentleman from Maryland asks unanimous consent that Sunday, February 1, be set aside for addresses on the life, character, and public services of the late SIDNEY E. MUDD. Is there objection? [After a pause.] The Chair hears none.

Mr. GUYER. Mr. Speaker, I wish to ask unanimous consent that Sunday, February 1, be set aside for addresses on the life, character, and public services of Hon. EDWARD C. LITTLE, late a Representative from the State of Kansas.

The SPEAKER. The gentleman from Kansas asks unanimous consent that on the same day there may be addresses on the life, character, and public services of the late Representative LITTLE. Is there objection? [After a pause.] The Chair hears none.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. GRIFFIN, for an indefinite period, on account of illness.

To Mr. SCHAFER, for 10 days, on account of illness in the family.

Mr. RUBEY. Mr. Speaker, I ask unanimous consent to speak for just a half moment. I speak in regard to our colleague, Mr. SHALLENBERGER, who has been ill and in the hospital. He is now up and out of the hospital, but I desire to ask unanimous consent for leave of absence indefinitely for him to extend since the holiday recess.

The SPEAKER. The Chair suggests to save time that Members follow the usual custom and fill out a slip——

Mr. RUBEY. I wanted to state it definitely. I should have done this before but I did not do it, and I ask now that his leave of absence may extend from since the holiday recess.

The SPEAKER. The gentleman from Missouri asks unanimous consent that Mr. SHALLENBERGER be granted leave of absence since the holiday recess. Is there objection? [After a pause.] The Chair hears none.

HOUR OF MEETING TO-MORROW

Mr. LONGWORTH. Mr. Speaker, I ask unanimous consent that when the House adjourns to-night, it adjourn to meet at 11 o'clock to-morrow morning.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ADJOURNMENT

Mr. McFADDEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 29 minutes p. m.) the House, under its previous order, adjourned until to-morrow, Thursday, January 15, 1925, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

794. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the legislative establishment of the United States for the fiscal year 1925 in the sum of $3,000 (H. Doc. No. 558); to the Committee on Appropriations and ordered to be printed.

795. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the legislative establishment of the United States for the fiscal year 1925 in the sum of $5,000 (H. Doc. No. 559); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. HUDDLESTON: Committee on Interstate and Foreign Commerce. H. R. 10150. A bill to authorize the construction of a bridge across the Tennessee River at or near the city of Decatur, Ala.; with amendments (Rept. No. 1182). Referred to the House Calendar.

Mr. FREDERICKS: Committee on the Public Lands. H. R. 9494. A bill to authorize the Secretary of the Interior to issue patent in fee simple to the county of Los Angeles, in the State of California, for a certain described tract of land for public park purposes; with amendments (Rept. No. 1183). Referred to the Committee of the Whole House on the state of the Union.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 1501. A bill for the exchange of land in El Dorado, Ark.; without amendment (Rept. No. 1185). Referred to the Committee of the Whole House on the state of the Union.

Mr. SMITH: Committee on the Public Lands. S. 2975. An act validating certain applications for and entries of public lands, and for other purposes; with amendments (Rept. No. 1187). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. COLTON: Committee on the Public Lands. H. R. 5786. A bill for the relief of Roberta H. Leigh and Laura H. Petit; without amendment (Rept. No. 1184). Referred to the Committee of the Whole House.

CHANGE OF REFERENCE

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 11117) granting an increase of pension to Benjamin F. McKee; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 11561) granting an increase of pension to Mary A. Donaghy; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. JOHNSON of South Dakota: A bill (H. R. 11633) to authorize an appropriation to provide additional hospital and out-patient dispensary facilities for persons entitled to hospi-

talization under the World War veterans' act, 1924; to the Committee on World War Veterans' Legislation.

By Mr. ALMON: A bill (H. R. 11634) to authorize the granting of leave of absence to the employees of the Corps of Engineers in the field service, United States Government, not to exceed 30 days in any one calendar year without forfeiture of pay; to the Committee on Military Affairs.

By Mr. HADLEY: A bill (H. R. 11635) providing for reclaiming certain lands in Indian and private ownership within and immediately adjacent to the Lummi Indian Reservation, in the State of Washington, and for other purposes; to the Committee on Indian Affairs.

By Mr. SPROUL of Illinois: A bill (H. R. 11636) authorizing and directing the Postmaster General to grant permission to use special canceling stamps or postmarking dies in the Chicago post office; to the Committee on the Post Office and Post Roads.

By Mr. HAMMER: A bill (H. R. 11637) to increase the appropriation for the purchase of a post-office site in the city of Rockingham, N. C.; to the Committee on Public Buildings and Grounds.

By Mr. WELLER: A bill (H. R. 11638) to amend the tariff act of 1922 and other acts, and to change the official title of the Board of United States General Appraisers and members thereof to that of the United States Customs Court, presiding judge and judges thereof; to the Committee on the Judiciary.

By Mr. BRIGGS: A bill (H. R. 11639) to amend the World War veterans' act, 1924, by adding thereto a new section, to be known as section 308, and for other purposes; to the Committee on World War Veterans' Legislation.

By Mr. COLTON: A bill (H. R. 11640) authorizing an appropriation of $7,500 from the tribal funds of the Indians of the Uintah and Ouray Reservation in Utah to pay one-half the cost of an industrial pavilion; to the Committee on Indian Affairs.

By Mr. JOHNSON of South Dakota: A bill (H. R. 11641) to equalize the promotion list of the Regular Army; to the Committee on Military Affairs.

By Mr. LANHAM: A bill (H. R. 11642) to amend that portion of the act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1916, and for other purposes," approved March 3, 1915 (38 Stat. pt. 1, pp. 939 and 940), relating to aviation accidents and gratuities and pensions paid therefor, and for other purposes; to the Committee on Military Affairs.

By Mr. BLANTON: A bill (H. R. 11643) to prevent fraudulent transactions respecting real estate; to the Committee on the District of Columbia.

By Mr. HAYDEN: A bill (H. R. 11644) granting certain public lands to the city of Phoenix, Arix., for municipal park, and other purposes; to the Committee on the Public Lands.

By Mr. McLAUGHLIN of Nebraska: Joint resolution (H. J. Res. 321) authorizing the President to require the United States Sugar Equalization Board (Inc.) to adjust a transaction relating to 3,500 tons of sugar imported from the Argentine Republic; to the Committee on Agriculture.

By Mr. KELLY: Resolution (H. Res. 403) providing for investigation of employment conditions in the Postal Service; to the Committee on Rules.

By Mr. CLARKE of New York: Resolution (H. Res. 404) providing for the printing of 25,000 copies of the Report of the National Conference on Utilization of Forest Products; to the Committee on Printing.

By Mr. O'CONNELL of New York: Memorial of the legislature of the State of New York, favoring the necessary appropriation for the deepening of the Hudson River to provide for the continuation of a 27-foot channel from the lower river to the capitol district; to the Committee on Rivers and Harbors.

By Mr. O'CONNOR of New York: Memorial of the legislature of the State of New York, asking appropriation for the deepening of the Hudson River; to the Committee on Rivers and Harbors.

By the SPEAKER (by request): Memorial of the legislature of the State of New York, favoring legislation and appropriations for the deepening of the Hudson River from the lower river to the capitol district; to the Committee on Rivers and Harbors.

By Mr. WELLER: Memorial of the legislature of the State of New York, calling on Congress to enact appropriate legislation to provide the authorization and necessary appropriation for the deepening of the Hudson River; to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWNE of Wisconsin: A bill (H. R. 11645) granting an increase of pension to Anna Biebel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11646) granting an increase of pension to Hannibal Culver; to the Committee on Invalid Pensions.

By Mr. GARBER: A bill (H. R. 11647) granting a pension to Amanda Armstrong; to the Committee on Pensions.

Also, a bill (H. R. 11648) granting a pension to Fannie E. Myers; to the Committee on Pensions.

Also, a bill (H. R. 11649) granting a pension to Addie Gill; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11650) granting an increase of pension to Rebecca Odell; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 11651) granting a pension to Mariah E. Smith; to the Committee on Invalid Pensions.

By Mr. KURTZ: A bill (H. R. 11652) granting an increase of pension to Susan Kemberlin; to the Committee on Invalid Pensions.

By Mr. LINEBERGER: A bill (H. R. 11653) granting a pension to Oscar C. Settle; to the Committee on Invalid Pensions.

By Mr. MANLOVE: A bill (H. R. 11654) granting a pension to James Madison Brown; to the Committee on Invalid Pensions.

By Mr. MERRITT: A bill (H. R. 11655) granting an increase of pension to Jane Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11656) granting an increase of pension to Evelyn Reynolds; to the Committee on Invalid Pensions.

By Mr. MURPHY: A bill (H. R. 11657) granting an increase of pension to Hannah J. Winters; to the Committee on Invalid Pensions.

By Mr. OLIVER of New York: A bill (H. R. 11658) for the relief of Edward Joseph Costello; to the Committee on Military Affairs.

By Mr. PARKER: A bill (H. R. 11659) granting an increase of pension to Sarah F. Vier; to the Committee on Invalid Pensions.

By Mr. PURNELL: A bill (H. R. 11660) granting an increase of pension to Frances D. Grishaw; to the Committee on Pensions.

By Mr. SANDERS of Indiana: A bill (H. R. 11661) granting a pension to Martha Martin; to the Committee on Invalid Pensions.

By Mr. SNELL: A bill (H. R. 11662) granting a pension to Henrietta F. Bowker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11663) granting an increase of pension to Lois I. Dugan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11664) granting a pension to Jennie La Porte; to the Committee on Invalid Pensions.

By Mr. VAILE: A bill (H. R. 11665) for the relief of William Wayne Overstreet; to the Committee on Naval Affairs.

By Mr. WARD of New York: A bill (H. R. 11666) granting a pension to James B. Rouse; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3447. By the SPEAKER (by request): Petition of the Arts Club of Washington, D. C., asking Congress to fulfill the promise giving in passing act No. 202, Sixty-eighth Congress, and to appropriate the full amount authorized in the act; to the Committee on Appropriations.

3448. Also (by request), petition of the city council of the city of Chicago, indorsing legislation for the relief of intending immigrants in possession of property visaed United States passports; to the Committee on Immigration and Naturalization.

3449. By Mr. ABERNETHY: Petition of Hon. A. D. Ward, of New Bern, N. C., favoring an additional Federal district court or a supply Federal judge for North Carolina; to the Committee on the Judiciary.

3450. By Mr. ANTHONY: Petition of the city of Topeka, Kans., protesting against the passage of the compulsory Sunday observance bill (S. 3218) or the passage of any other religious legislation which may be pending; to the Committee on the District of Columbia.

3451. By Mr. EVANS of Iowa: Petition of citizens of Iowa, opposed to the enactment of compulsory Sunday observance bill; to the Committee on the District of Columbia.

3452. By Mr. HAWLEY: Petition of residents of Medford, Oreg., to the House of Representatives not to concur in the passage of the compulsory Sunday observance bill (S. 3218)

nor to pass any legislation of religious nature which may be pending; to the Committee on the District of Columbia.

3453. By Mr. LEA of California: Petition of 740 residents of California, protesting against the enactment of Senate bill 3218, known as the compulsory Sunday observance bill; to the Committee on the District of Columbia.

3454. By Mr. SINNOTT: Petitions of residents of Morrow County, Oreg., protesting against the passage of the compulsory Sunday observance bill (S. 3218); to the Committee on the District of Columbia.

3455. By Mr. STRONG of Kansas: Petition of over 100 citizens of Clay Center, Kans., favoring passage of legislation to increase pensions of veterans of the Civil, Indian, and Spanish Wars and their widows; to the Committee on Pensions.

SENATE

THURSDAY, *January 15, 1925*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Gracious Father, we rejoice before Thee this morning. Thy rule over us is a rule of love. Thou dost bear with us in many of the circumstances of life, and Thou dost bring us safely through all the pathways wherein we find confusion and distress. Thou art the same yesterday, to-day, and forever in Thy care over us. Humbly we look unto Thee with gratitude this morning and ask for Thy further guidance, so that whatever may be awaiting us as the days multiply we may be able to say according to Thine own word, as thy day is so shall thy strength be. Hear us, help us, forgiving our failings and shortcomings, and accept of us, through Christ our Lord. Amen.

The reading clerk proceeded to read the Journal of the proceedings of the legislative day of Monday, January 5, 1925, when, on request of Mr. JONES of Washington and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its clerks, announced that the House had passed a bill (H. R. 8887) to amend an act entitled "An act to provide for the consolidation of national banking associations," approved November 7, 1918; to amend section 5136 as amended, section 5137, section 5138 as amended, section 5142, section 5150, section 5155, section 5190, section 5200 as amended, section 5202 as amended, section 5208 as amended, section 5211 as amended, of the Revised Statutes of the United States; and to amend section 9, section 13, section 22, and section 24 of the Federal reserve act, and for other purposes, in which it requested the concurrence of the Senate.

METHOD OF CAPITAL PUNISHMENT IN THE DISTRICT

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 387) to prescribe the method of capital punishment in the District of Columbia, which were, on page 2, lines 2 and 3, to strike out "available and not otherwise" and insert in lieu thereof "hereafter"; and on page 2, line 6, to strike out "available and not otherwise" and insert in lieu thereof "hereafter."

Mr. BALL. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

Mr. BALL. I submit a concurrent resolution and ask for its immediate consideration.

The concurrent resolution (S. Con. Res. 26) was read as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate be, and he is hereby, authorized and directed, in the enrollment of the bill (S. 387) to prescribe the method of capital punishment in the District of Columbia, to strike out on page 1, line 3, of the engrossed bill the following: "on and after the 1st day of July, 1924," and insert: "hereafter."

Mr. KING. May I understand the purpose of the amendment proposed to be made?

Mr. BALL. The reason for this action is that the Senate passed the bill last January and it was to go into effect on the 1st day of July, 1924. Now, the object is to have the date changed so that it will go into effect after its approval.

Mr. KING. I think that is a mistake.

Mr. BALL. As the bill stands now it is to go into effect on the 1st day of July, 1924.

Mr. KING. I see, but it ought to be July 1, 1925, because the necessary arrangements will have to be made.

The concurrent resolution was considered by unanimous consent and agreed to.

OFFICIAL PAPERS OF TERRITORIES

Mr. RALSTON. There is on the calendar the bill (S. 2935) for the publication of official papers of the Territories of the United States now in the national archives. The bill was reported from the Committee on Printing with an amendment. I ask unanimous consent that the amendment found on page 3, line 1, consisting of the insertion of the three words "authorized to be" may be agreed to at this time.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Indiana?

Mr. MOSES. May I interrupt to say to the Senator from Indiana that I think the Senator from Utah [Mr. SMOOT] wishes to be present when the bill is considered?

Mr. RALSTON. I had an understanding with him yesterday that in his absence I could ask for the adoption of the amendment.

Mr. MOSES. Very well. I did not know the Senator had such an arrangement with the Senator from Utah. I have no objection.

There being no objection the bill was considered as in Committee of the Whole.

The amendment of the Committee on Printing was, on page 3, line 1, after the word "hereby," to insert the words "authorized to be," so as to make the sentence read, "There is hereby authorized to be appropriated," etc.

The amendment was agreed to.

Mr. RALSTON. Now I move that the bill be further amended by striking out the word "historian" wherever it occurs in the bill and inserting in lieu thereof the word "editor."

The PRESIDENT pro tempore. The amendment will be stated.

The READING CLERK. Wherever in the bill the word "historian" occurs, strike out the word and insert in lieu thereof the word "editor."

The amendment was agreed to.

The PRESIDENT pro tempore. Does the Senator from Indiana desire the bill passed at this time?

Mr. RALSTON. No. I did not have an understanding with the senior Senator from Utah that it was to be put upon its passage, but that I would simply have the amendments agreed to.

The PRESIDENT pro tempore. The amendments have been agreed to and the bill will be returned to the calendar.

MAY ADELAIDE SHARP

Mr. SIMMONS. Mr. President, I ask unanimous consent for the present consideration——

Mr. MOSES. Mr. President, may we not have the regular order? I have a number of small reports from the Committee on Printing that I would like to present to the Senate and ask for their immediate consideration. We are under the head of presentation of petitions and memorials, if I understand the situation correctly.

Mr. SIMMONS. What I desire to do will not take three minutes.

Mr. MOSES. I shall not object to the request which the Senator is about to make, but I certainly wish to reach the regular order at some time.

Mr. SIMMONS. I desire to call up the bill (H. R. 6498) for the relief of May Adelaide Sharp. It is a bill to pay to Mrs. Sharp, the widow of Hunter Sharp, late American consul at Edinburgh, Scotland, the sum of $5,000. The bill has passed the House. It has been favorably reported by the Committee on Claims, and I ask unanimous consent for its present consideration.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from North Carolina?

There being no objection, the bill was considered as in Committee of the Whole, and it was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to May Adelaide Sharp, widow of the late Hunter Sharp, late American consul at Edinburgh, Scotland, the sum of $5,000, being one year's salary of her deceased husband, who died of illness incurred while in the Consular Service; and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, a sufficient sum to carry out the purpose of this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.